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# SEARCHING FOR DR. JOSEF MENGELE

COMPLETED

## HEARINGS

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

## COMMITTEE ON THE JUDICIARY
## UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

TO INQUIRE INTO DR. MENGELE'S WHEREABOUTS AND ON THE ROLE OF THE U.S. ARMY, IF HE WAS IN CUSTODY OF THE U.S. GOVERNMENT

FEBRUARY 19, MARCH 19, AND AUGUST 2, 1985

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# SEARCHING FOR DR. JOSEF MENGELE

TUESDAY, FEBRUARY 19, 1985

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:13 a.m., in room 124, of the Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Present: Senator Metzenbaum.

Staff present: Neal Manne, chief counsel, subcommittee; Michael Gale, legislative assistant (Senator Specter); Scott Wallace, counsel, subcommittee; Tracy McGee, chief clerk, subcommittee; Michael Wooten, counsel, full committee; and Steve Ross, counsel (Senator Metzenbaum).

## OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen. We will begin this hearing concerning Dr. Josef Mengele. This matter has recently received substantial attention.

Based on experiments conducted by Josef Mengele on children, on women, and on men, charged with the extermination of some 400,000 Jews, evidence has come to light that at some points Dr. Mengele was in the custody of the U.S. Government, specifically in the custody of the U.S. Army. This hearing will seek to inquire into questions as to his current whereabouts with a view to apprehending him and bringing him to justice.

This hearing will inquire into practices on experiments on children and others, and on the role of the U.S. Army and the U.S. Government in what happened to Dr. Mengele, if in fact he was in custody of the U.S. Government why he was not brought to trial in 1945 or 1947.

We will further inquire into the whereabouts of Dr. Mengele beyond that point in time, where he has been rumored to be in a variety of countries, including Paraguay and other countries in South America, in an effort to seek answers to the questions as to what action the U.S. Government might have taken to bring Dr. Mengele to justice prior to this point, or what might be done to bring him to justice as promptly as possible.

At this time, I will yield to my distinguished colleague from Ohio, Senator Metzenbaum.

## OPENING STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. I very much appreciate the fact, Mr. Chairman, that you have seen fit to go forward with these hearings. This committee cannot very well determine where Dr. Mengele is and how we go about apprehending him and bringing him back to justice. This committee, however, can learn the facts, tell the American people, maybe the world as well, what our own Government has done—maybe, more importantly, what it hasn't done—in connection with ex-Nazi leaders, particularly such as Dr. Mengele. And maybe even more important than what we have or haven't done relates to the issue of what we are now doing and whether or not our own governmental officials are giving it the full press that the issue requires. You don't have to be a genius to know that everyone has his or her own life expectancy, and I think it's critically important that Dr. Mengele be brought to justice before he leaves this Earth, and I think it is important that every arm of our own Government be utilized and bring that kind of an effort to the undertaking.

I, for one, don't believe that that has been the case in the past. I think there has been some effort to shield the facts from the people, and I think this hearing today very well may be able to help us prod our own Government into doing that which it should be doing.

Thank you, Mr. Chairman.

Senator SPECTER. Thank you, Senator Metzenbaum.

We will call as our first witness today the distinguished Senator from New York, Senator D'Amato, who has taken a leadership role in initiating litigation, along with the representatives of the Wiesenthal Center, to compel the production of certain documents from the Department of Army, documents some of which have been made available prior to this hearing, and some of which may be made available during the course of the hearing.

We welcome you, Senator D'Amato, and look forward to your testimony.

## STATEMENT OF HON. ALFONSE M. D'AMATO, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator D'AMATO. Thank you, Mr. Chairman, and let me congratulate you and this committee for going forward in this important undertaking, an undertaking that I do believe will contribute much in our efforts to identify where the infamous Josef Mengele, so-called Angel of Death, has been since the war, and whether or not he indeed came into the custody of the United States.

The fact is that the attention given to these important hearings, the undertakings of those who are attempting to put together the trail, the puzzle of Mengele, how he has been able for so many years to escape justice, and who has aided him in this effort, is most important.

Some people wonder how this is? The fact of the matter is that, Mr. Chairman, you and I were in Los Angeles where an engineer by the name of Kempthorne came forward and gave vivid testimony and pictures indicating that there was a prison in Idar-Ober-

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stein in 1945, a camp in which Kempthorne served for a brief period of time as a tower guard. Mr. Kempthorne came forward, testified that indeed someone, a prisoner of war, a German, was identified to him as Mengele in very descriptive language; he was described to him as "the bastard who was responsible for the sterilization of 3,000 women," and he recalls vividly that when he asked the American officers who had this German prisoner in custody—he was a 19-year-old private at the time, who knew nothing about Mengele or Auschwitz, this event having taken place the week of July 1945, that the prisoner was breathing hard, that they were giving him a workout requiring extensive physical exercise—he was sweating profusely—that the guards felt compelled to offer him an explanation, and said: We are getting him ready for the hangman.

He also recalls on July 14, 1945, and has pictures showing the guard tower, showing himself, showing his designation as a CIC unit—that's Counter Intelligence Corps—that there was a turnover, a transfer of those facilities, at least the perimeter facilities, to the French.

He would not have come forward and been able to give us that information were it not for the fact that a lawsuit was filed asking the Army to produce various documents, and the question arising as to whether or not Mengele indeed had ever come into custody of the Army, or of this Government. That prompted him, 40 years later, to come forward and make this kind of identification.

I suggest, Mr. Chairman, that that process can and must continue, that Senator Metzenbaum's remarks as to where has Mengele been and where hasn't he been are important. But there is another importance: What can we do to bring him to justice, and what we must do in order to bring him to justice?

I believe, after talking to a number of intelligence officers and others, and working with the people in the Simon Wiesenthal Center—and it was that lawsuit, I think, that brought so much attendant publicity to the situation, that others are now coming forward, others who can identify Mengele or who can put information forth that can help develop that picture and this search.

If this investigation takes place on camera, we are limiting the ability and the effectiveness to gather all of the information. I believe that there are many people who would be willing to give information if they were to have the understanding and the knowledge that they could play an important part in the case of Mengele.

I think it's an incredible thing we call him "Doctor"—I don't believe he deserves that lofty title. Seventy-three years old, 40 years later, there are some who say we should put this to bed, we should forget this—he's an old man. And I suggest to you, given the kinds of crimes he has committed, that we should search him down to the ends of the Earth and bring him to justice.

Mr. Chairman, just this morning additional information has come forward, some that we have read in the newspapers, that talks about Mengele and his involvement in drug dealing.

Let me suggest to you, that there is a totally independent source and I will not go further in identifying that source, so as not to breach a confidence. Let me say that we are getting cooperation in

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terms of both the Army and other agencies, that I think should have been made available years ago—better late than never. There is information that there were various cables both in 1972 and 1979 from our drug enforcement agencies, identifying Mr. Mengele as a drug dealer in South America, using the name—one of the aliases—of Wollman. It fits in to the pattern, and it fits in this information, with the testimony that Rabbi Hier and information that he has just recently secured and will be putting forth. The area of drug activity was emanating from Paraguay, and of course, its proximity to Brazil and other areas, and the network that Mengele had available to him that gave him the high sources that afforded him protection. Information revealed that these people indeed were arrested, certain of them, for drug dealings—interestingly, two of them in New York on charges of cocaine smuggling, but escaped. Totally independent, this information tends to augment and supplement that which Rabbi Hier from another source on the west coast comes forward with.

We are very hopeful, Mr. Chairman, that this information can be made public in more detail than I am releasing today, within the next 3 to 4 days.

As a result of the attendant publicity, Mr. Chairman, another former serviceman who served in the same area of Germany, who read about Mr. Kempthorne coming forward, came in to my office. He said that he, too, was a private stationed at the facility in Idar-Oberstein, that he was in a unit that initially was not to undertake guard duty. Evidently Mr. Kempthorne's testimony or statements jogged his memory, and he went back into the archives, into his own, and took out pictures of that prison camp. And then having recalled that there was a doctor, an infamous doctor—he doesn't recall the name given to him—who was known as "the sterilization doctor," that he had written a letter to many of his friends in terms of describing to them what his duties were, and he was able to dig out of his own personal archives a letter that irrefutably comes back to him from one of his friends, talking about the things that he, Mr. Richard Schwartz, had talked about 40 years ago.

I would like to read you just the third paragraph. This is a letter written to young Private Schwartz 40 years ago from one of his friends after he had told him of his duty at this guard camp. He says, "Your description of your prison chores with the SS men, the sterilization doctor, et cetera . . ."— note "the sterilization doctor, et cetera"—". . . was very interesting." He goes on "That's a swell crowd to be chumming around with, Dick. Don't forget to treat them rough. According to Uncle Eddie . . ."—and, of course, Uncle Eddie was a prisoner of war—" . . . they were hard on our boys."

This is not just an idle recollection, it is one that he recalls, it is one that he also brings in pictures that we have not had an opportunity to blow up. Mr. Schwartz came in as a result of the publicity, as a result of reading where another young private, identified Idar-Oberstein, a private who came in with vivid photographs of his tower duty, an engineer—Mr. Schwartz, by the way, is a practicing attorney, worked for the Government, grew up in the town of Hempstead in Woodmere, Long Island, and he is now living here in Washington.

Mr. Chairman, when we talked to the various intelligence agencies and officers and people who are knowledgeable, there is no doubt that, this monster, Mengele, is alive. There is no doubt in my mind that if we in the United States of America had him in custody—and I believe that there are facts the Army is now checking out in terms of Idar-Oberstein and who took over and what happened to Mengele—that we have a moral responsibility greater than ever to make a very real concerted effort at bringing him to justice, that if we and the other nations of the world—Canada and others—use the power, political and otherwise, that we have, that we can isolate Mengele. There are very few places in this world who will really give him sanctuary; he should be brought to justice, and we can be and should be successful in this endeavor.

Mr. Chairman, as I have indicated both Rabbi Hier and Mr. Schwartz can give testimony supplementing that which I have attempted to outline for you.

Let me commend you for your zeal in undertaking this hearing, for the important work that it is about. I think we can and should be successful in this undertaking.

Senator SPECTER. Thank you very much, Senator D'Amato. There is no doubt that hearings of this sort, litigation, and the glare of public attention, will stimulate other people to come forward with information about Josef Mengele. The litigation that you refer to has been a stimulating factor.

Last Tuesday at the Wiesenthal Center in Los Angeles, I announced that these hearings would be held today. As a result of a number of factors, Walter Kempthorne came forward to provide evidence last week that he was a guard in an Army base where Mengele was identified as being held as a prisoner, and the presence today of Mr. Schwartz, whom we will hear from, is a further indication that, as the glare of public attention is focused on Mengele, we can expect more people to come forward, and I believe we can find Mengele and bring him to justice.

The Attorney General's investigation is an important step forward, and these hearings are another important step forward to accomplish that glare of public attention.

Senator D'AMATO. I think, Mr. Chairman, it's important to note that the kind of investigation becomes almost meaningless unless it is conducted in such a way that it is brought to the public attention at various stages—not to compromise the investigation, but to get better and fuller participation, those facts that come into our possession to aid more individuals such as Mr. Kempthorne and Mr. Schwartz coming forward. I suggest to you that the Army would have an impossible task of locating Mengele or locating any evidence that would indicate that indeed he was in their possession. What records would they start to review? Where would they start to look to check out all of those records—and there have been many that have been burned, we understand, in that tragic fire—so I think it is important that there be systematic briefings in terms of the picture, so that others can come forward and help those who are conducting the investigation in a more specific area so that they can be more successful.

I think that is one of the things that your committee, the Judiciary Committee, can play a very, very important role in.

Senator SPECTER. That's the second time you have said "conducted in camera," Senator. You don't mean conducted with the absence of cameras.

Senator D'AMATO. Well, let me suggest to you, if in the traditional method of criminal investigation this is undertaken without there being periods of time in which information is put forth to help stimulate additional information, I think that it may not be nearly as successful as it could be otherwise.

Senator SPECTER. Well, with the aid of the media, I would invite anyone who has any knowledge of Josef Mengele to write to this subcommittee, attention: Arlen Specter, U.S. Senate, Washington, DC 20510, anyone who knows anything about Josef Mengele either in the 1940's, 1950's, 1960's, 1970's, or 1980's, or to this moment. I will get that mail in addition to some substantial other mail.

Senator Metzenbaum?

Senator METZENBAUM. Senator D'Amato, I think last week you indicated that Mengele had sent Christmas cards to friends from Portugal in 1980.

Can you share more facts about that with us, or do you have copies of the cards, or do you have the cards themselves?

Senator D'AMATO. No; what we do have, though, is reliable information from various sources that indicate—you have to understand that Mengele, when he moved into Paraguay, did not come in under an alias, he came in with the name—this is in 1951—Josef Mengele. He gave his date and place of birth, correct date and place of birth. In 1959, he was a naturalized citizen in Paraguay, he received citizenship there, made no attempt to hide who he was or where he came from.

It was this kind of open setting that he enjoyed with various people, in Paraguay, people who had very close relationships with those in power.

We picked up—and I cannot go further until we get a total release of this information—that indeed in 1980 various officials in Paraguay received Christmas cards and letters—these were good friends of Mengele, people who he had enjoyed a very strong rapport with over the years—correspondence from him. That correspondence came up to 1980. There was no further——

Senator METZENBAUM. You haven't seen the cards?

Senator D'AMATO. I have not, but the sources that we received this information from are reliable. The place of origination was Portugal. It would be naive for people to think that Mengele just sat in Paraguay—he did not. He had the ability to move in and move out. Indeed, one of the very real questions was, during a certain period of time, 1962, because the release of the Army documents that we have just obtained as a result of the lawsuit indicate that a Josef Menke—M-e-n-k-e—who initially we knew sought entry into Canada, indeed was in Canada. We have not ascertained with any degree of definiteness whether or not Menke was Mengele. There is a good reason to believe that he may have been. So that we know that Mengele just did not sit there in one area outside of Asuncion, in Paraguay, but did have the ability to move between Paraguay, Brazil, Argentina—and this last bit of information that we received—and I am sorry I can't be more specific at this time—and I think you would understand why.

Senator METZENBAUM. No, I don't. I don't. As a matter of fact, I am having some difficulty because I believe that there need be a serious effort to find Mengele.

Senator D'AMATO. Well, Senator, are you suggesting that I don't believe that?

Senator METZENBAUM. No, I am not suggesting that at all. What I am suggesting is—I sit here as a lawyer, a member of the Judiciary Committee, and I want to see if we can't tie down the facts as they are. You are mentioning the other witness who is going to testify——

Senator D'AMATO. In terms of the drug dealing, that is correct, and in terms of the second witness—that is information that I have given to you, and I said that I would hope that we would be able within the next several days to have a release of various documents that can give us further detail on that.

Senator METZENBAUM. That's from the Army?

Senator D'AMATO. I am hoping that we can get the release of various documents so that this committee and others will have that information that has been given to me from an unofficial source—and I will not go further than that.

I believe, though, Senator—and I would hope that you would understand—that it will be forthcoming within the next 2 to 3 days. There are various clearances that have to be obtained, we have every reason to believe that they will be, and I also have every reason to believe that this particular agency is using all good, deliberate speed and effort in seeking its release. If that were not the case, I would say so. I think you know that.

Senator METZENBAUM. I'm not questioning that, and I appreciate the efforts you have made. On the other hand, I want to try to sift the evidence. Mengele has now become such an international issue that any kind of a comment about him is newsworthy and I am interested in Mr. Schwartz' testimony because he said he knew there was somebody they had in the camp who was known as the sterilization doctor. I want to know—maybe there were three or four doctors of that kind in a Nazi operation, whether or not that was Mengele.

Senator D'AMATO. Mr. Schwartz cannot, as distinguished from Mr. Kempthorne—nor does he attempt to, nor does he say that that was Mengele; he knows that they were Nazi war criminals, it was also known as the camp that had the sterilization doctor.

Mr. Kempthorne—and that's why I say these things begin to then fit in—comes in and says that there was someone identified to him by one of the guards as Dr. Mengele, so that, again, no one person may be in a position to put the entire story forward, such as various documents, which would appear to be in response to inquiries made by the Treasury Department, with specificity in 1979, in regard to cocaine smuggling, with regard to someone known as Wollman, which may have been an alias, because certain information came that Mengele used this as an alias in his drug dealings.

Senator METZENBAUM. Senator D'Amato, let's assume that Mengele was involved in cocaine smuggling. I am trying to tie it together.

Senator D'AMATO. It is certainly one way to support his ability to stay at large, raise large sums of money, have the protection of var-

ious people in high governmental places in South America, and then also be able to finance his moving around when necessary.

So, if anything, it lends credibility to that fact.

These, by the way, are not isolated. There were various inquiries with respect to him, one that first came up by a petty thief who was arrested and first identified Wollman as a possible alias for Mengele. Thereafter additional inquiries came through directed toward Mengele from apparently DEA and Treasury in connection with his operations.

Senator METZENBAUM. When did the drug smuggling apparently take place?

Senator D'AMATO. 1972 and 1979 are the first couple of times we begin to pick up the business of drug smuggling. Rabbi Hier, developing totally independent information, different sources, goes in with some more specificity in terms of details of drug smuggling that allegedly Mengele was involved in between 1980 and 1982.

Senator METZENBAUM. But then I see a report—and I know nothing more about it than this newspaper report—that Mengele was, as recently as 1982, working as a beekeeper, and a California businessman who reportedly lived with Mengele 2 years until late 1982—and I gather that is when he was doing the beekeeping.

Senator D'AMATO. I think that the rabbi can tell you with some more specificity that Mengele wasn't a beekeeper as such, but became very obsessed with beekeeping, so it should not be thought that he was attempting to support himself or utilize this.

One of the other things you have to know is that he had a family of some great wealth and substance. I won't go much further than that.

In 1972, a petty criminal named Luis deposes that Mengele lived in Carcion, in Paraguay, and that he was involved in drug dealing. That is the first time we found out, that's in 1972. He indicates that Mengele was using the name of Enrique Wollman. He also indicates that there is protection being given to him by people in the Paraguayan Government.

We understand that there was a period of time in the sixties when Mengele kind of disappeared from public view. If you remember, the Israelis were closing in on him. That might account for—if Menke was Mengele—him being up in Canada in 1962. We don't know. That's why it becomes important to try to put these facts together.

By the release of Army documents we know that on June 18, 1962, there was a question from the Canadians saying Josef Menke is in Canada, that he had a stepson, he had a wife, that he liked to raise dogs, and they say to the U.S. Army: Was he ever in your possession and can you give us information about him, do you have a picture, do you have fingerprints, can you give us characteristics about Menke, or Mengele, so as we may see if they are one and the same?

There is a letter that is sent in answer to this, and, Senator, the answer was not very responsive.

So what I am suggesting to you, that we know that he, from various intelligence reports, that Mengele did disappear from the Paraguayan scene for a number of years, did apparently come back and was cited as a possible drug operator in 1972. He was cited as living

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and having a friendship with Alvin Krug, who was then head of the Nazi Party in Paraguay, and that he had undergone plastic surgery and looked much younger—that is in 1974. In 1979 we begin to hear about drug enforcement agencies interested in Wollman, an alias for Mengele, apparently involved with a man named Becker in cocaine trading. Again, in 1979, inquiries with respect to drug trading, with respect to two individuals, Becker and Morelli, both of whom were arrested in New York for drug smuggling, and both having escaped.

Senator, it would be my hope that this additional information would be made available in more detail. As I say, we are waiting for release.

In addition, there are various government officials commenting—and this is picked up by intelligence sources—commenting that Mengele sent correspondence, including Christmas cards, to them from Portugal. They then went on—these are people who are closely associated with the Government in Paraguay—to say that they believe that Mengele is dead.

Senator SPECTER. Senator D'Amato, are you in a position to identify the documents without revealing the source so that when the representatives from the Department of the Army testify we can seek the specific documents?

Senator D'AMATO. No, I am not. I have been briefed as to them, and I think I went as far as I really practically could without jeopardizing certain operations.

Senator SPECTER. Could you say how many documents there are?

Senator D'AMATO. Seven.

Senator SPECTER. And how would you describe them, generally as you can, without breaching your confidences?

Senator D'AMATO. I would describe them as giving us a better insight into Mengele's movements, his operations, the access he had. It tends to confirm other reports about obviously his access to the Paraguayans. The fact about the drug dealing is something of which I had no knowledge. I think that you will find that others will then be in a position to come forward and begin to piece that together. Indeed, the question arises whether or not these two gentlemen, Becker and Morelli, who apparently were arrested in New York and then escaped—I don't know whether they jumped bail—there are allegations that they were connected with Mengele—that is as recently as 1979.

Senator SPECTER. But you have had a response from the Department of the Army that they declined to give you documents on the basis of national security considerations.

Senator D'AMATO. Yes, I have, and I would suggest that I believe they are now very much cooperating, seeking release of various documents, one in particular——

Senator SPECTER. Senator D'Amato, was that notice in writing or orally?

Senator D'AMATO. Oh, yes, that notice was in writing. Under the Freedom of Information Act, the Simon Wiesenthal Center asked for these documents, and it was not until we finally—Rabbi Hier and I talked about this, oh, 6 weeks prior to our bringing a lawsuit. I think we brought the lawsuit January 28, and the Rabbi and I decided that we would make every good-faith effort to obtain the

release of these documents when we first spoke, and I said let's see what we can get. And finally we just felt that we had to bring a suit in order to get some of these.

I think what it did is maybe got the bureaucracy to move with a little more speed. This is one of the documents that we were able to get. That was the one concerning Menke, which I just spoke to you about. That's important. It fits in, and now obviously we have an opportunity to talk to the Canadians. They want to know who Menke was obviously. We don't know where Menke is. Is he still there? Was he indeed Mengele? I suspect there is a good chance he may have been—we don't know.

Senator SPECTER. Senator D'Amato, I am advised by staff that the Army has disclosed all but one document requested in the suit.

Senator D'AMATO. That's correct.

Senator SPECTER. But you believe that there are other documents.

Senator D'AMATO. There are seven other documents that we are waiting for.

Senator SPECTER. Seven other documents besides the one.

Senator D'AMATO. Yes. I didn't tell you where they are. We are waiting for seven——

Senator SPECTER. I haven't asked you.

Senator D'AMATO. Good. But we are waiting for seven other documents. When we get those documents, we will obviously give them to this committee, to you, Mr. Chairman.

Senator SPECTER. You do not have the documents.

Senator D'AMATO. I do not have them. I have been briefed on them, I have shared that briefing with you today.

Senator SPECTER. Do you have the other document that you requested from the Army?

Senator D'AMATO. Yes, we do. The other is a two-page document. Rabbi Hier will give you some specifics on that—we have it here. It is basically the testimony of a woman who indicates what took place, what transpired to her, what she was subjected to as one of the victims.

The last document—there are four documents, they call this document 1 and 2, it's two pages—the second is this one from the Canadians with regard to Menke, where they are asking us whether or not we have additional information so they can establish whether or not Menke is Mengele. He was in Canada. We all knew that there was someone by the name of Menke who sought entrance into Canada. This is the first time we find out that a fellow by the name of Menke actually got into Canada.

Senator METZENBAUM. You said you didn't know—we would have to find out whether they still have Menke, where he is.

Senator D'AMATO. Well, that is taking place right now. Minister Mulroney, as a result of information coming forward about Menke seeking entrance, has asked for a full investigation. We have been in contact in Canada with various authorities, and they are conducting a full-scale investigation.

Senator METZENBAUM. I guess what I am really asking is whether they knew where Menke was in 1962.

Senator D'AMATO. Yes.

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Senator METZENBAUM. Is he discharged? Where is he, what is he doing now?

Senator D'AMATO. Senator, that is exactly why I believe the Canadians are undertaking this investigation. I would have to assume that they have lost sight of him, that he is no longer there, I would have to assume.

But this is interesting—again, in 1962; they are really saying we think—if you read this document—do you have a copy of this document?

Senator METZENBAUM. Yes, I do.

Senator D'AMATO. If you read that document, Senator, you can only come to one conclusion. They are saying, look, we have got this fellow Menke here, we think he is Mengele.

Senator METZENBAUM. No, that isn't what they are saying.

Senator D'AMATO. Well——

Senator METZENBAUM. I don't think they are saying that. I think we maybe ought to clarify that.

Senator D'AMATO. OK.

Senator METZENBAUM. They say:

Information has been received to the effect that a man residing in Canada and using the name Josef Menke may be identical to Josef Mengele, an alleged German war criminal.

Then they ask about——

Senator D'AMATO. Specifics. Mr. Senator, I am suggesting to you that the Canadians suspect at this time that Menke may be Mengele, is that not true?

Senator METZENBAUM. Well, I think that they say that he may be.

Senator D'AMATO. Well, that's all I am saying. I didn't say that we know he is or isn't.

And then they say will you send us specific information, such as fingerprints, if you have them, pictures, if you have them, characteristics, if you have them, so that we may make a better identification. It's inescapable that Menke is there, and what they are attempting to do is find out if indeed Menke and Mengele are one and the same—that's all I have said.

Senator SPECTER. Senator D'Amato, you say you now have all four of the documents you have requested.

Senator D'AMATO. No, three. We are waiting for the fourth. I know that counsel for the Army is here and that since they believe a foreign government is involved, you must get their authority to release this. I spoke to counsel this past Thursday in Watertown—she indicated to me that she believed that it would be forthcoming.

So I take people at their face word. When they tell me at face value what they say to me, they think it's going to be forthcoming—we have sued for it.

Senator SPECTER. Is that document the one which you had said was not disclosed on grounds of national security?

Senator D'AMATO. Correct. And that being raised, which says that you must have, where there is a foreign government involved, you must get their permission to release it. That is why we eventually went to court.

BEST COPY AVAILABLE

Senator SPECTER. We have gotten into these documents rather deeply now, and, although General Odom was not scheduled to testify until later, I think it would be most efficient if we were to call upon General Odom at this time to deal with the issue of the documents.

If you wouldn't mind stepping forward, General, and Mrs. Susan Crawford, general counsel, is invited to join you.

General Odom, would you identify yourself, please.

**STATEMENTS OF WILLIAM E. ODOM, LIEUTENANT GENERAL, U.S. ARMY, ASSISTANT CHIEF OF STAFF FOR INTELLIGENCE, AND SUSAN J. CRAWFORD, ESQ., GENERAL COUNSEL, U.S. ARMY, THE PENTAGON, WASHINGTON, DC**

General ODOM. I am Lt. Gen. William E. Odom, Assistant Chief of Staff for Intelligence, Department of the Army.

Senator SPECTER. And you are accompanied by whom?

General ODOM. Mrs. Susan J. Crawford, who is the general counsel of the Department of the Army.

Senator SPECTER. We welcome you here and, before asking you specific questions, I would give you an opportunity to make any statement you would choose about the documents in the possession of the Army and what efforts you have made so far to make disclosures.

General ODOM. Well, Mr. Senator, my proposed testimony for hearing later is directed precisely at that.

Senator SPECTER. Yes, proceed with it. We have gotten into it now, and I think it is orderly, and I think it would also be appropriate and helpful to have Senator D'Amato present—I know he has a busy schedule and may not be able to be with us later.

Go ahead, General.

General ODOM. I'm pleased to be here today to discuss with you the matters relating to the context and substance of the 17 pages of Army documents relating to Dr. Josef Mengele; 16 of these 17 pages have been released by the Army pursuant to the Freedom of Information Act; the 17th page is a foreign document. We have requested that that foreign government grant us permission to release the document.

Senator SPECTER. General Odom, do you have copies of the 16 pages with you at this moment?

General ODOM. We do, sir.

Senator SPECTER. Would you place those in the record at this time so that we can have them formally from you with the identification you have just rendered?

General ODOM. We'll do that, Senator—they are right here.

[The following documents were received for the record:]

RESTRICTED

COPY

US CIVIL CENSORSHIP SUBDIVISION
CIVIL CENSORSHIP DIVISION, USFET

1 Nov 46 6 Nov 46 A - ET - P G/46/27719

From:

F. KELLER
Wayne University
College of Liberal Arts
Detroit 1, Michigan

To:

Mr. HERMANN ROTHOLZ
179 Manfred von Richthofenstr.
Berlin-Tempelhof
Germany

Norman

| Released | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | None | | None | | |
| P | 2 | 30092 | 30230 | 30256 | 21 Nov 46 | 25 Nov 46 | GL |

33/PS
CID

/cd/

IDENTIFICATION OF CONCENTRATION CAMP MEDICAL OFFICERS

"Name of the Camp Medical Officer in BIRKENAU K. HAUPTSTURMFUEHRER DR. MENGELE.

Was DR. THILO the Camp Medical Officer of ORANIENBURG or of LIEBEROSE?"

Enclosure: None

RESTRICTED

13377

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Confidential
HEADQUARTERS
COUNTER INTELLIGENCE CORPS REGION V
970TH COUNTER INTELLIGENCE CORPS DETACHMENT

APO 339

28 April 1947

File V-339

SUBJECT: Dr. [illegible], Ing

TO: 1. Commanding Officer
970th Counter Intelligence Corps Detachment
Attn: [illegible], APO 757, U.S. Army
XXXXX 8-9

1. Transmittal of attached letter.

1. Request that attached letter be forwarded to Headquarters 430th CIC Detachment (TILLY) Attachment) for their information and action as requested therein.

2. For your information and appropriate action.

FOR THE COMMANDING OFFICER:

[illegible] J. A. CURRY
Special Agent, CIC
Operations

Tel: [illegible] 2206

1 Incls Ltr 464 28 Apr 47.

Log No. [illegible] 1340

[illegible]-35125
CIC/S-3/OPS

1st Ind

Headquarters, 970th Counter Intelligence Corps Detachment, U.S. Zone Command, APO 757, US Army, 13 May 1947

TO: Commanding Officer, 430th CIC Detachment, United States Forces in Austria, APO 777, US Army

1 Incl: Ltr, CIC Region V, dtd 28 Apr 47, subj: Dr. [illegible], Ing.

SP/afh/Telephone 22746

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HEADQUARTERS
COUNTER INTELLIGENCE CORPS REGION V
970TH COUNTER INTELLIGENCE CORPS DETACHMENT

APO [illegible]

28 April 1947

Files Y-3299

SUBJECT: Dr. [illegible], Fmn

TO : Commanding Officer
Hqs, 430th CIC Det., ([illegible] Detachment)
USFET, APO 777, U.S. Army

RE : Interrogation of Subject regarding removal of group of Jewish children from AMSTETTEN Internation Camp in November 1944

1. This office has received information that one Dr. [illegible], Fmn, former Chefarzt (chief medical Doctor) in AMSTETTEN Internation Camp has been arrested in VIENNA.

2. Upon questioning by an Agent of this office the informant stated that to the best of his knowledge Dr. [illegible] was arrested in the U.S. Zone of Germany. Consequently, if this information is correct, your office should be informed of the arrest and of the present whereabouts of Subject.

3. Subject can be located and if an interrogation of Subject by CIC or upon request of CIC is possible, it is requested that he be interrogated with regard to the fate of a group of approximately 20 Jewish children who were removed by him from the AMSTETTEN Camp in November 1944 and taken to an unknown place.

4. The fact of the removal of the Jewish children from AMSTETTEN by Dr. [illegible] was confirmed to this office by the father of one of these children who lives in [illegible]. Other parents of children among this group of 20 are still alive and most eager to have news from or about their children.

5. Any information from your office, based on a thorough interrogation of Subject regarding the fate of the above mentioned children will be greatly appreciated by this office.

FOR THE COMMANDING OFFICER:

[illegible] J. H. COREY
Special Agent, CIC
Operations

Y-4028

Confidential

(Retyped by Juvenile
Justice Subcommittee)

HEADQUARTERS
COUNTER INTELLIGENCE CORPS REGION V

File V-3299 28 April 1947

SUBJECT: Dr. Mengele, fnu
TO: Commanding Officer
Hqs. 430th CIC Det., (VIENNA D*******t)
USFET, APO 777, U.S. Army
RE: Interrogation of subject regarding removal of group of Jewish children from Auschwitz Extermination camp in November 1944.

1. This office has received information that one Dr. MENGELE, fnu, former Chef***t (chief medical doctor) in AUSCHWITZ Extermination Camp has been arrested in VIENNA.

2. Upon questioning by an agent of this office the informant stated that to the best of his knowledge Dr. MENGELE was arrested in the U.S. Zone of Germany. Consequently, if this information is correct, your office should be informed of the arrest and of the present whereabouts of Subject.

3. Subject can be located and if an interrogation of subject by CIC or upon request of CIC is possible, it is requested that he be interrogated with regard to the fate of a froup of approximately 20 Jewish children who were removed by him from the Auschwitz Camp in November 1944 and taken to an unknown place.

4. The fact of the removal of the Jewish children from AUSCHWITZ by Dr. MENGELE was confirmed to this office by the father of one of these children who lives in RECH***BURG. Other parents of children among that group of 20 are still alive and most eager to have news from or about their children.

5. Any information from your office, based on a thorough interrogation of Subject regarding the fate of the above mentioned children will be greatly appreciated by this office;

FOR THE COMMANDING OFFICER:

BEN J.M. GORBY
Special Agent, CIC
Operations

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(**** means illegible)

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X 111/11

CAN [illegible]0477

Visa Control Section
Cologne, Germany

18 June 1962

CONFIDENTIAL

The Commanding Officer
USAREUR Central Registry (PRW)
513th INTC. Group
A.P.O. 154, U.S. Forces

Re: Joseph MENKE with alias

Information has been received to the effect that a man, residing in Canada and using the name Joseph MENKE, may be identical to Joseph MENGELE, an alleged German War Criminal.

2. The unverified information on hand states that MENGELE, born 19 March, 1911 in GUNZBURG, Germany, was a doctor with the Nazi Party; was married and had one step-son, Carlos ENRIQUE. Purportedly, accompanied by his wife and step-son, MENGELE fled to South America from Germany and was reported to have been living in Argentina in February, 1960. In addition, it is mentioned that one of MENGELE's hobbies was raising and training dogs.

3. In view of the preceding, we should be grateful to receive any information concerning MENGELE that you are in a position to supply. We are particularly interested in obtaining as much descriptive information as possible, including finger prints and photographs of MENGELE, his wife and son; and in determining whether MENGELE is, in fact, wanted for War Crimes.

4. It would be appreciated if this enquiry could be treated as expeditiously as possible.

21466

C [illegible]

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USAREUR CENTRAL REGISTRY (PROV)
513TH INTELLIG NCE CORPS GROUP
APO 154 US FORCES

AEUPO-CR(FR) 26 June 1962

Visa Control Officer
Canadian Embassy
ATTN: Mr. G.M. Bailey
Buchheimerstrasse 64-66
Weiner Platz
Koeln/Mulheim, Germany

Dear Sir:

Reference is made to your letter, file K 411/11, dated 18 June 1962, concerning Joseph NEMEC.

The files of USAREUR Central Registry have been checked and the results are indicated on the attached inclosure.

Sincerely yours,

1 Incl
DA 568, 25 Jun 62

BUFORD R. McCHAREN JR
Major, AI (Inf)
Commanding

Tel: Sgt M 8273/JJM/blg

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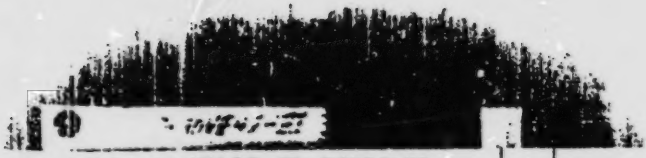

CONFIDENTIAL

SUBJECT: Mengele, Josef, [redacted]

HOME ADDRESS: Günzburg

OCCUPATION: Dr. med.

NATIONALITY: [redacted] DATE OF BIRTH: 1912

| GROUP | SA | SUBJ. SS | NSDAP | NSDC | HJ | OTHERS: |
|---|---|---|---|---|---|---|
| | | | | | | |

EARLY SS POSITION:

ARMED FORCES:

WEHRMACHT:

HISTORY OF CASE:

CASE OPENED:

CLOSED:

REMARKS: Subject was S.S. Hauptsturmführer( Stabsarzt)
according by M.G. Fragebogen ( Augsburg B-D- 25)
Mengele, Karl Guenzburg Stadtbach 4.

1417

CONFIDENTIAL

F

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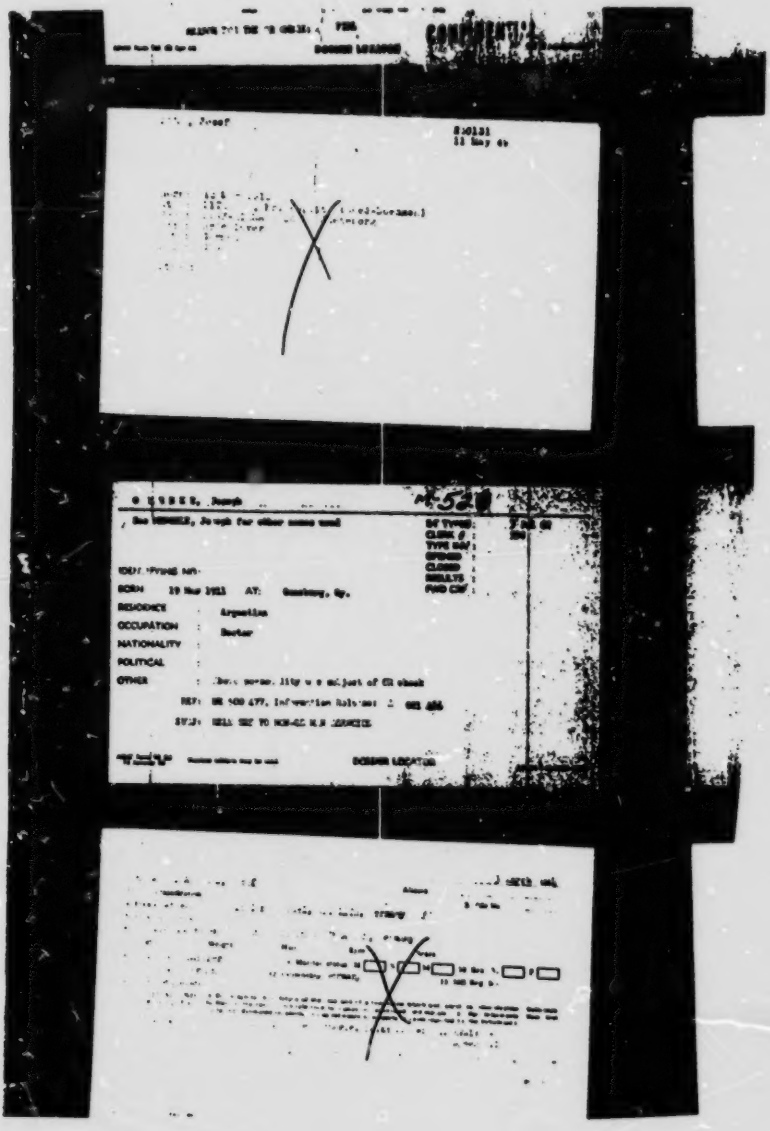
Central Bkt 520 85 0 59 3248 JB



BORN 19 Mar 1911 AT: Guadeloupe, Sp.
RESIDENCE : Argentina
OCCUPATION : Doctor
NATIONALITY :
POLITICAL :
OTHER :

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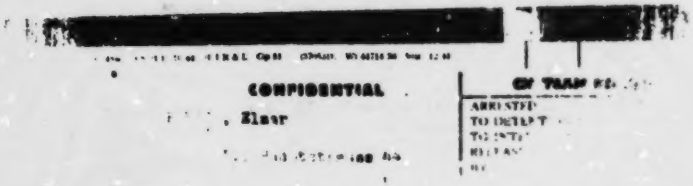
ENGELS, Dr

R-38225

SS Hauptsturmführer, camp medical officer of the concentration camp Birkenau near Auschwitz. Responsible for the murder of Dr Mieber, Gerhard



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, Elmar

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NAME MENGELE, Dr. (Ger) SS GERMANY (VIII) Fürstenau

ADDRESS

DESCR Age 30/40; height 1.60m; medium build; brown eyes; round chin; round face; brown skin.

MISC

CAREER SS Ostuf., AUSCHWITZ K.L. Selecting Doctor, BIRKENAU B 2 1944.

206812 8 Army (Re)

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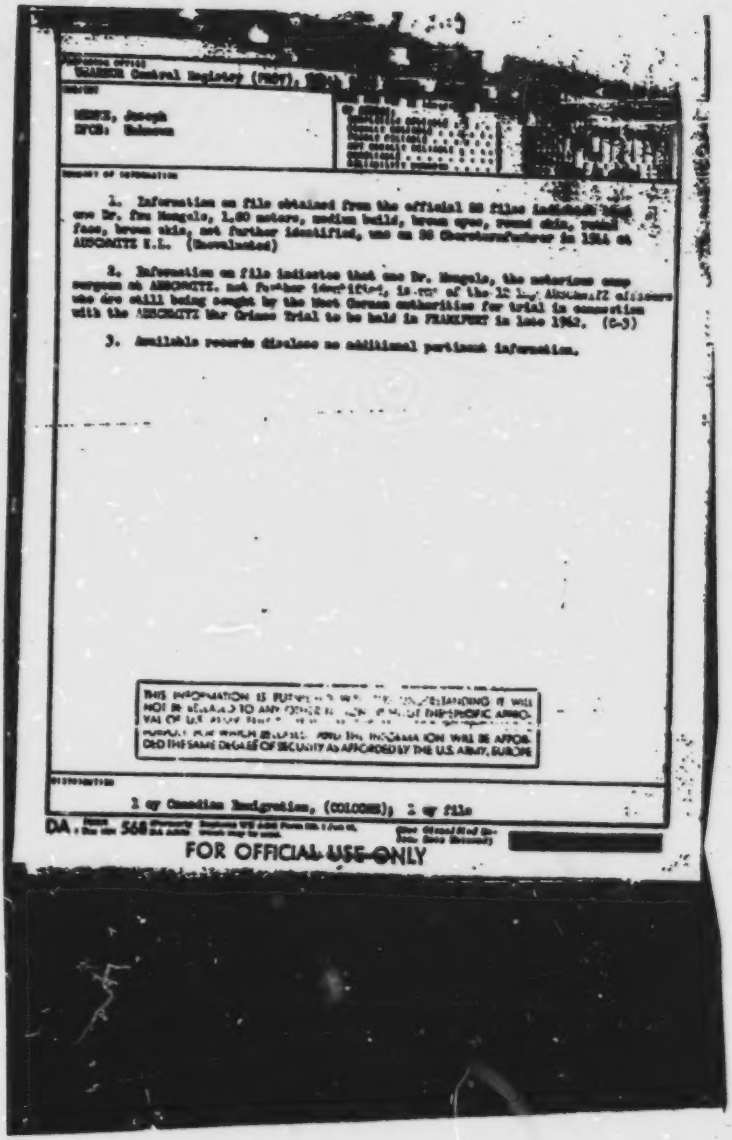

Central Registry (CROT),

MEERS, Joseph
DOB: Unknown

1. Information on file obtained from the official SS files indicates that one Dr. Fon Mengele, 1,80 meters, medium build, brown eyes, round chin, round face, brown skin, not further identified, was an SS Obersturmführer in 1944 at AUSCHWITZ K.L. (Evaluated)

2. Information on file indicates that one Dr. Mengele, the notorious camp surgeon at AUSCHWITZ, not further identified, is one of the 22 key Auschwitz officers who are still being sought by the West German authorities for trial in connection with the AUSCHWITZ War Crimes Trial to be held in FRANKFURT in late 1962. (C-3)

3. Available records disclose no additional pertinent information.

THIS INFORMATION IS FURNISHED WITH THE UNDERSTANDING IT WILL NOT BE RELEASED TO ANY OTHER AGENCY OF THE FOREIGN OFFICIAL OF U.S. ARMY EUROPE

HOWEVER, FOR WORLD SECURITY PURPOSES, THIS INFORMATION WILL BE AFFORDED THE SAME DEGREE OF SECURITY AS AFFORDED BY THE U.S. ARMY, EUROPE

1 cy Canadian Immigration, (COLOGNE); 2 cy file

DA FORM 568

FOR OFFICIAL USE ONLY

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COPY

CENTRAL TRACING BUREAU
UNRRA
APO 757 U.S. ARMY

FILE : 584-(10869) T/G. 11th March 1946

SUBJECT : Dr. Bernhard MOSBERG (formerly of 4 Noblens Strasse, Bielfeld, Westphalia)

TO : G-2 Division,
U.S. Zone,
USFET/MAIN.
(Attn: Colonel Marr)

1. Reference is made to our letter of 13th December 1945 concerning the alleged murder of the above named subject and Mr. H.H.B. Mosberg's desire to act as a Subsidiary Plaintiff in a case against the person held responsible for this crime.

2. Attached please find a photostat copy of a Statutory Declaration made by Dr. Lucie Adelsberger and Mr. Berle Stoppelman concerning the death of Dr. Bernhard Mosberg. We send these documents to you on the advice of the Legal Division, Control Commission for Germany in accordance with their letter of 24.2.46, copy of which is attached.

3. Please acknowledge receipt of the attached documents. If any further details are required we should be glad if you would communicate direct with Mr. H.H.B. Mosberg, c/o British Broadcasting Corporation, P.O.B. 60, Reading, England.

J.R. BOWRING
Colonel
Director, Central Tracing Bureau

Encl: 2
1-Photostat copy of Statutory Declaration.
1-Copy of letter dated 24.2.46.

LE.

BEST COPY AVAILABLE

COPY

KANTOOR
VAN
S. HENNINK BOLT
Notaris
AMSTERDAM(C)
Keizersgracht 622

dated December 7-1945

Of the statement by Miss Doctor
Doctoranda L. Adelsberger and
Miss Doctoranda M.Stoppelman,
both residing at Amsterdam.

VERKLARING / STATEMENT.

To day this seventh day of December nineteen hundred and forty five appeared before me, ENGELBART HENNINK BOLT, Notary Public, having my official residence at Amsterdam, Kingdom of the Netherlands:----------

1. Miss Doctor LUCIE ADELSBERGER, Physician, residing at Amsterdam, 59 Stadionweg;

2. Miss Doctoranda MARIE STOPPELMAN, physician, residing at Amsterdam, 150 Keizersgracht;

both requesting me, Notary Public, to certificate an declaration on oath

the said appearers have declared:

Miss GERTRUD JULIA MOSBERG, of Amsterdam, born the fifth of July nineteenhundred and three, made the following statement to us at the concentration camp of Birkenau near Auschwitz:----------

"My father, Doctor BERNHARD MOSBERG, born the twentthieth of February eighteenhundred and seventy four, and myself, both of Amsterdam, were sent to the Auschwitz camp from Theresienstadt. When the "Theresienstadt" section of the Birkenau camp became endangered, I begged the camp medical officer, SS. Hauptsturmführer Doctor Mengele, for my father's life. This he refused----------
I was transferred to the concentration camp for women, and my father stayed behind in the "Theresienstadt" section of the Birkenau camp, where he was sent to the gas chamber.----------

To our knowledge of the Birkenau concentration camp, the entire complement of the "Theresienstadt" section was sent to the gas chamber [illegible] between

twenty and thirty of the inmate were sent to other camps.----------
As far not among these, and it can be stated with almost certain probability that he was killed in the gas chamber.----------
The said appearers have declared that they wanted to make this statement as the said Doctor GERTRUD JULIA MOSBERG has so far not returned to Amsterdam and is still missing.----------
The said Miss Doctor DELSBERGER has declared that she has last seen the said Doctor GERTRUD JULIA MOSBERG in the concentration camp of Ravensbruack in January nineteenhundred and forty five, when she was in a critical state of health.----------
Hereupon I, Notary Public, have drawn the attention of the deponents to the fact that it is a punishable offence as a forgery, according to article 227 of the Criminal Code of the Netherlands, to have an untruthful declaration recording in an authentic act.----------
Thereupon I, Notary Public, have asked the deponents whether they stood by their depositions, which they answered in the affirmative and confirmed this on oath.----------
The appearers are personally known to me, Notary Public.----------
Deed of which, drawn up in minute, was done and executed at Amsterdam on the day written at the commencement there of, in the presence of Mr. KAREL HENDRIK WALLIEN and HENDRIK JOHANNES SWEERS, both candidate notary public and both residing at Amsterdam, as witnesses.----------
Immediately after being read aloud by me, Notary Public, this deed was signed by the appearers, the witnesses and myself, Notary Public.----------
----------Dr. med. LUCIE ADELSBERGER.----------
----------M. STOPPELMAN.----------
----------K.H. WALLIEN.----------
----------H.J. SWEERS.----------
----------E. BENAINK BOLT, Notary Public.----------

Certified as a true copy of the original;

British Consulate General
Amsterdam
3rd January 19[illegible]

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UNITED STATES FORCES
COUNTER INTELLIGENCE CORPS
APO 757

461(CIC/S-3/CR) 9 January 1946
(Date)

SUBJECT: [redacted]

TO : War Crimes Branch, APO 633, U.S. Army

1. It is requested that the action indicated below be accomplished and that any additional information that you may have concerning Subject be forwarded to this organization.

☐ Investigation and Report.

☐ Accomplishment of attached Summary of Information.

☒ For your information.

☐ Appropriate action.

☐ Return of attached papers.

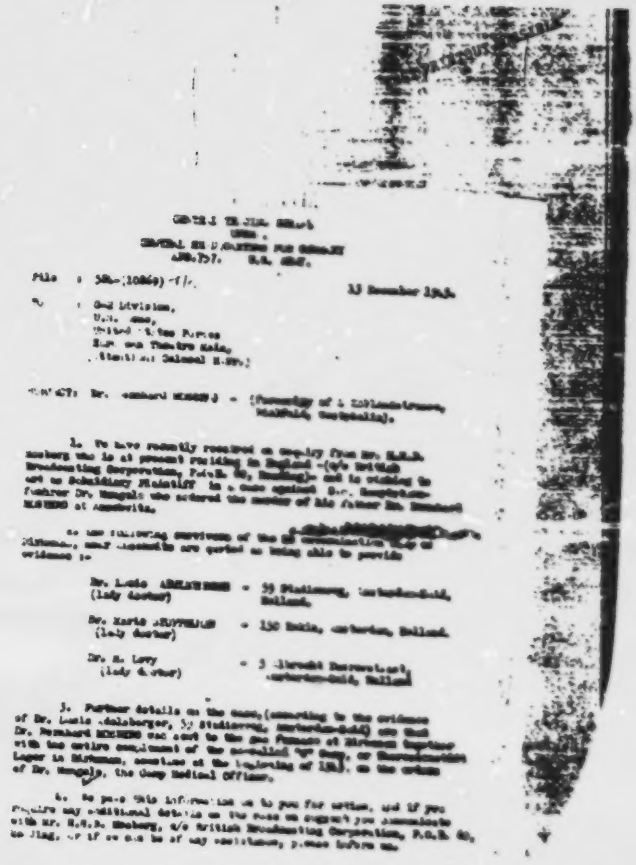
For the Chief, C.I.C.

Frank M Garvey
[redacted]
Lt. Col., Inf.
S-3

Telephone: FRANKFURT 2-3223

3 Incl (s) :
1. Ltr UNRRA re Subj
2. Copy SHAEF CPI Card re Subj
3. [redacted] Report re Subject

CONFIDENTIAL



[illegible]

File : 58-(1084) -[illegible].

13 December 1945.

To : Civil Division,
U.S. Army,
United States Forces
European Theatre Main,
(Central Collecting Point)

Subject: Dr. Bernard MEYBERG - (Proceedings of a Dilitary Court, Maastricht, Netherlands).

1. We have recently received an inquiry from Mr. R.H.B. Warburg who is at present residing in England -(c/o British Broadcasting Corporation, Public Relations, Bush House)- and is wishing to act as Solicitor Plaintiff in a case against Dr. Hauptsturmführer Dr. Wagner who ordered the murder of his father Dr. Bernhard MEYBERG at Amsterdam.

2. The following survivors of the SS concentration camp of Vught, near Amsterdam are quoted as being able to provide evidence :-

| | |
|---|---|
| Dr. Louis ADELBERGER (Lady doctor) | - 39 Stadionweg, Amsterdam-Zuid, Holland. |
| Dr. Karla JEUTHEUSZ (Lady doctor) | - 130 Beets, Amsterdam, Holland. |
| Dr. E. Levy (Lady doctor) | - 3 Jacobi Hospital, Amsterdam-Zuid, Holland |

3. Further details on the case, (according to the evidence of Dr. Louis Adelberger, 39 Stadionweg, Amsterdam-Zuid) are that Dr. Bernhard MEYBERG was sent to the SS Prisons at Scheveningen together with the entire complement of the so-called "Joodsche Raad" (Jewish Council) in Amsterdam, consisting of the leadership of 125, on the orders of Dr. Wagner, the Camp Medical Officer.

4. We pass this information on to you for action, and if you require any additional details on the case we suggest you communicate with Mr. R.H.B. Warburg, c/o British Broadcasting Corporation, P.O.B. 82, Cairo, and if we can be of any assistance, please inform us.

[illegible]
Lieutenant-General,
Chief of Counsel for [illegible].

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GERMANY

Name MENGELE, Dr.

Address

Description

Misc.

Career SS Hstuf. Senior Medical Officer at Auschwitz Concentartion Camp.

WANTED BY MAJOR

Last known address: Mu - 35225

Shaef/I (b)/2

General ODOM. As you may be aware, the releasability of that 17th document is currently a matter in litigation between Rabbi Hier, and others, and the U.S. Government. Because of that litigation, it would be inappropriate for me to comment on any matters of substance relating to that lawsuit.

Senator SPECTER. Now, wait a minute, General; why?

Senator METZENBAUM. I don't buy that.

Mrs. CRAWFORD. Let me answer that.

Senator SPECTER. That is a statement that is made with great frequency and with little substance. The pendency of a lawsuit does not preclude people from commenting about what is in the lawsuit unless there is a secrecy order entered by a court.

General ODOM. I'll let my general counsel answer that, sir.

Senator SPECTER. Good judgment.

Mrs. CRAWFORD. There is no secrecy order, and we are fully prepared to discuss the substance of the documents, to include the document that we are still withholding, the foreign document that General Odom talked about. We are advised by our attorneys at the Department of Justice that they would prefer that we not discuss the legal reasons for withholding the documents.

I can tell you that the three documents that were initially withheld and not released under the Freedom of Information Act requests were documents that originated in a foreign country, a Canadian document that Senator D'Amato has referred to as well as a document that originated in the Government of the Netherlands.

We have received permission from both of those countries to release those documents, and they have been released. We still have one yet to go. The Justice Department would prefer that we not get into the legal reasoning of why we withheld as opposed to why we did not release.

However, as to the substance of the documents and the information contained in those documents, we are fully prepared and General Odom is ready to discuss those matters here this morning.

Senator SPECTER. Well, Mrs. Crawford, we would not press you for reasons in the context of your request not to be pressed at this moment on advice of the Department of Justice, so long as the reason is not the pendency of the Rabbi Hier lawsuit, because there is nothing about the filing of Rabbi Hier's lawsuit, to my mind, which would give any reason not to discuss it, simply because the matter is in litigation.

You are not saying that we can't discuss them because a private lawsuit has been filed?

Mrs. CRAWFORD. No, sir, not at all. In fact, we are fully prepared to discuss the substance and describe each of those documents in detail here this morning.

Senator SPECTER. With that cleared away, let us proceed with General Odom's testimony.

General ODOM. Although I am not in a position to provide firsthand information on the subject of the present and past whereabouts of Dr. Mengele, let me assure you that the Department of the Army will cooperate fully with the Department of Justice, Office of Special Investigations, in its investigation into this matter.

We welcome the recent statements of Mr. Walter Kempthorne and any light that he may be able to shed on this subject. I would like at this time to supply for the record a certified copy of Mr. Kempthorne's service record with the U.S. Army.[1]

As you can appreciate, the information provided by Mr. Kempthorne and Mr. Schwartz is new to us. We will work closely with the Office of Special Investigations to actively investigate this new information, and any other information which may surface, as to whether there were any Army contacts with Mengele after World War II.

I would now like to discuss the 17 Army documents. After analyzing them at length——

Senator METZENBAUM. May I just interrupt for a minute? You indicated that you are providing us with Mr. Kempthorne's service record.

General ODOM. Yes, sir.

Senator METZENBAUM. Is there any particular relevance to your doing that? Is there some point that you are making?

Senator SPECTER. Mr. Kempthorne has given testimony that he was a private in 1945.

General ODOM. We are confirming that, sir. In other words, we are providing evidence——

Senator METZENBAUM. I just wanted to know if you were confirming it or indicating to the contrary.

General ODOM. We are tending to support his testimony.

Mrs. CRAWFORD. I would note for the record—and it is contained in the certified copy—we did delete some portions of that record, subject to the Privacy Act. These were matters dealing with personal history, family matters, beneficiaries, health records—but in terms of his assignments and how long he was in the Army, I believe that file is complete in terms of confirming his statement of last week.

Senator METZENBAUM. Thank you, Mrs. Crawford.

Mrs. CRAWFORD. With his permission, we will release the rest.

Senator METZENBAUM. I see no reason to do that. I am not requesting to do that. I just didn't know whether the general was making a particular point, and I think the point is made, and that is he was confirming the fact that he was in a position to have the information he has.

General ODOM. Precisely, Senator. Now, as I was saying, Army personnel have separated these documents into four categories.

The first category contains a one-page document. It reflects the interception by the U.S. Civil Censorship Submission, Civil Censorship Division, U.S. Forces European Theater, of a telegram written by W. Heller, of Wayne University to Mr. Hermann Rotholz, of Berlin, dated November 1, 1946. The letter identifies Mengele as the camp medical officer at Birkenau.

The second category consists of a memorandum and transmittal letter from Special Agent Ben J.M. Gorby, 970th CIC Detachment,

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[1] Due to the volume of documents comprising the service record of Mr. Kempthorne, they are not printed herein, but will be maintained in the subcommittee offices as a part of the permanent hearing record. The materials indicate that Mr. Kempthorne was inducted on January 28, 1944, served in the European theater from December 21, 1984, to September 5, 1945, and was separated from service on April 24, 1946.

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to the commanding officer, headquarters, 430th CIC Detachment in Vienna. Both of these pages are dated April 28, 1947.

In the memorandum, Special Agent Gorby relates information given him by an undisclosed source that Mengele was (*a*) arrested in Vienna, and (*b*) was arrested in the U.S. zone of Germany.

The memorandum further states:

> If an interrogation of subject by CIC or upon request of CIC is possible, it is requested that he be interrogated with regard to the fate of approximately 20 Jewish children who were removed by him from the Auschwitz camp * * *.

I would like to emphasize that the information contained in the Gorby memorandum is not supported by any other documents in the Army's possession. For that reason I am unable to shed any light on whether the information contained in the memorandum is true.

The third category consists of Canadian-initiated correspondence between the Canadian and U.S. Governments. The visa control section of the Canadian Embassy in Cologne, Germany, wrote to the commanding officer, USAREUR Central Registry, seeking information about Mengele in light of information received that an individual residing in Canada under the name Joseph Menke might be Mengele. This letter is dated June 18, 1962. The USAREUR response consists of a transmittal letter, a summary of U.S. information concerning Mengele, and five data cards on Mengele, none of which contain fingerprints or imply an arrest of Mengele. The U.S. response is dated June 26, 1962.

The final category is of correspondence among various Army units and between the U.S. Tracing Bureau and the British Government in 1945 and 1946. It concerns the request of H.H.B. Mosberg, a resident of London, to be named substitute plaintiff on behalf of his father who died at Auschwitz for any war crimes proceedings against Mengele. Also, the Army possesses an affidavit from Doctors Lucie Adeisberger and Marie Stoppelman, notarized in the Netherlands, stating that Dr. Bernard Mosberg was sent to the gas chambers at Auschwitz.

The 17th page is merely a cover sheet of our Mengele file and states only his name.

Let me state for the record that the documents give no indication that Dr. Mengele was the subject of Army intelligence interest.

If I may, I would now like to discuss the manner in which our search was conducted. Prior to Rabbi Hier's Freedom of Information Act request, a file containing 5 of the 17 pages on Mengele was located in response to another request. Included in this file was the April 28, 1947 letter of Ben J.M. Gorby. At that time, further checks were made for additional records on Mengele with negative results.

In response to a request by Rabbi Abraham Cooper, associate dean of the Wiesenthal Center, in October 1984, our records were once again examined, and the five-page file again identified. Those five pages were released to Rabbi Cooper in November 1984. That same month Rabbi Hier provided us a list of aliases allegedly used by Dr. Mengele over the years. Although we were unable to locate any additional records under the aliases, by varying the spelling of Mengele's name, for example, "Megele," further searches in our

microfilm holdings were triggered. Also, through recovery of further internal indices within the microfilm holdings, the microfilm officer was able to establish a cross-reference to a file concerning Dr. Bernard Mosberg. That file included the foreign government information on Mengele. Additional variations on Mengele's name were developed and further searches conducted. However, these searches, and searches on various aliases used by Mengele, as supplied by Rabbi Hier, have proved futile. For the record, I have attached to my statement copies of all correspondence pertaining to these searches.

Senator SPECTER. Without objection, they will be received.

General ODOM. I hope I have adequately addressed the subcommittee's questions concerning the 17 pages of Army documents relating to Dr. Josef Mengele. Let me again assure this subcommittee that we shall fully cooperate with the Justice Department in its investigation into the past and present whereabouts of Mengele. I thank you for your attention and will gladly try to answer any questions that you may have.

Before that, I would like to make one clarifying remark with regard to earlier testimony on additional documents.

To my knowledge, the Army does not have those additional documents that the Senator referred to. It could be that some other agency has them. We will continue to search, and if we turn up anything, that will be supplied to the Justice Department, the Office of Special Investigations.

Senator D'AMATO. Mr. Chairman, if I might, again for the record, attempt to put it much clearer. I did not intend at any time that there was anything other than one document which counsel had indicated to me would be forthcoming.

General ODOM. Thank you, sir.

Senator D'AMATO. That's not the case. We are not alleging that you have that under no circumstances. We know that you don't.

Senator SPECTER. Well, Senator D'Amato, on that subject, what efforts, if you are at liberty to say, are being made to obtain the seven documents?

Senator D'AMATO. I have received the assurance that this particular agency is attempting and believes that it will have these documents released within this week, and I take them at their face value.

Senator SPECTER. You are talking about an agency of the U.S. Government?

Senator D'AMATO. That's correct. And so I am looking forward to that. When they are made available, the committee will have them.

I would also suggest that, Mr. Chairman, given the new information that is almost being developed on a daily basis—Walter Kempthorne coming forward—that now the Army has an opportunity—Mr. Schwartz, who just comes forward today, his testimony, his letter——

Senator SPECTER. He may come forward tomorrow at this rate of progress.

Senator D'AMATO. So be it. That the Army now has the ability with more preciseness and precision to look into its records, records

that otherwise might be totally impossible for them ever to discern where they are or where to begin to conduct the investigation.

So I think this points out how this process can be aided as a result of people coming forth and assisting the Army in its search of these records and for information on Mengele.

Senator SPECTER. General Odom, I would like to turn at this point to the letter dated April 28, 1947 from special agent of the CIC, Ben J.M. Gorby, which has, according to the retype of the main Army document, the caption:

Headquarters, Counter Intelligence Corps, Region V, subject: Dr. Mengele, to the Commanding Officer, Headquarters, 430th CIC, USFET, APO 77 U.S. Army, re: Interrogation of Subject Regarding Removal of Group of Jewish Children from Auschwitz Extermination Camp in November 1944:

1. This office has received information that one Dr. Mengele in Auschwitz Extermination Camp has been arrested in Vienna.

2. Upon questioning by an agent of this office, the informant stated that, to the best of his knowledge, Dr. Mengele was arrested in the U.S. zone of Germany. Consequently, if this information is correct, your office should be informed of the arrest and of the present whereabouts of subject.

3. Subject can be located, and if an interrogation of subject by CIC, or upon request of CIC, is possible, it is requested that he be interrogated with regard to the fate of approximately twenty Jewish children who were removed by him from the Auschwitz camp in November 1944 and taken to an unknown place.

4. The fact of the removal of the Jewish children from Auschwitz by Dr. Mengele was confirmed to this office by the father of one of these children, who lives in Brechtberg. Other parents' children among that group of twenty are still alive and most eager to have news from or about their children.

5. Any information from your office based on a thorough interrogation of subject regarding the fate of the above-mentioned children will be greatly appreciated by this office.

For the Commanding Officer, Ben J. M. Gorby, Special Agent, CIC Operations.

Now, have I accurately read the letter that you have produced, one of the documents that you have produced?

General ODOM. You have, sir.

Senator SPECTER. Was there any reply to that letter located by the Department of the Army?

General ODOM. I do not believe there was any other evidence in our records of a response or of the veracity of the letter, one way or another.

Senator SPECTER. What efforts have been made to find out if there ever had been a response? For example, has the Department of the Army identified who the commanding officer was of headquarters, 430th CIC, to make a determination whether this letter was received?

General ODOM. Sir, what we have done is what I described in my statement as scouring the files——

Senator SPECTER. You are talking about a records check.

General ODOM [continuing]. To find more evidence in other records. To my knowledge, we have not attempted to identify and interrogate and follow through on an investigation of that sort.

Senator SPECTER. Well, my question goes beyond a records check. This is a very powerful document, obviously and on its face, because it says that information has been received that Mengele was arrested in Vienna, and a very important question, based on information in the hands of the Department of the Army, was what did the Army do about this in 1947? And my question to you is: What has the Army done now, knowing of this letter, to identify the com-

manding officer who received this letter, to see what action he took about this letter?

General ODOM. Sir, to my knowledge, we have made no such attempt to identify.

Senator SPECTER. Don't you think you should, General?

General ODOM. I believe the Office of Special Investigations in the Justice Department might well ask us to do that.

Senator SPECTER. Well, if they don't, I am.

General ODOM. We will accept your request, sir, and be as cooperative as we can on these followup investigations.

Senator SPECTER. General, how long have you known about this letter?

General ODOM. Only since last week, sir.

Senator SPECTER. General Odom, I would suggest to you that it is incumbent upon the Government of the United States, the Army of the United States, and on you, immediately upon learning of the existence of such a letter, to try to find out what was done about it. And the first step, obviously, from an investigative point of view, is to determine the identity of the commanding officer at this time, and ask him if he ever received this letter, and, if so, what he did about it.

General ODOM. Sir, I feel sure that that sort of followup activity will take place under the Justice Department's lead in the near future.

Senator SPECTER. Well, that may be, but I would suggest to you that the Department of the Army and you have a duty, once you learn of this, to act on it. There is a major question as to what has happened between 1947 and last week, but there is also a question of what happened between last week and the present time.

You have already said you will make the inquiry, and I would urge you to do so today, to start that process.

General ODOM. Sir, I have word that my own staff is already acting on the contents of the Gorby letter.

Senator SPECTER. And what has your own staff done, as you describe it, on acting on the Gorby letter?

General ODOM. Following up to determine whether or not we can learn any more about the validity or whether we can identify additional information connected with it.

Senator SPECTER. Well, what have they done? That's a generalization.

General ODOM. I have no specifics to provide at this time, sir. This case has come to my attention fairly recently.

Senator SPECTER. You just received a note from your staff. Would you find out what has been done?

General ODOM. I will find that out, sir, and I will provide that in as much detail as you would like for the record. I am not in a position to do it right now, because I don't have it available.

Senator SPECTER. Well, you have a staff member present. Somebody just handed you a note. You supplemented your statement that nothing had been done by saying that something had been done.

I would like to know what has been done.

General, we would be pleased to hear from your staff member.

General ODOM. Well, I will just repeat what I heard, sir. We have for some time been trying to identify the name of the 430th commander. We have not been successful in that effort.

Senator SPECTER. When you say "for some time," for how long?

Why don't you step forward, young lady—why don't you step forward and let's hear from you.

Mrs. CRAWFORD. Senator, this is Ms. Paula Boggs from my staff.

Senator SPECTER. Fine, if you will step forward, we will provide a chair for you, and if you will identify yourself for the record, and tell us what has been done specifically.

## STATEMENT OF PAULA BOGGS, ASSISTANT TO THE GENERAL COUNSEL, DEPARTMENT OF THE ARMY

Ms. BOGGS. Yes. My name is Paula Boggs, I am an assistant to the general counsel, Department of the Army. The people in the Office of the Assistant Chief of Staff, Intelligence, have been thoroughly investigating the identities of various persons mentioned in the various documents released to Rabbi Hier, pursuant to his Freedom of Information Act request.

Specifically, concerning the 1947 document, we have been trying to ascertain the identity of the commanding officer of the 430th Detachment in Vienna at that time. It is extremely difficult to do so, because there was a fire at our central records repository in St. Louis in 1973, and many documents, personnel records, were burned at that time.

But we have been actively pursuing this matter for at least the past 3 weeks, and I do not have a specific date on which we began such.

But if the identity is ascertained, we will disclose that to your committee at this time. We strongly suspect, however, that the individual, the commanding officer, is probably deceased at this time, because as a commanding officer of the CIC Detachment, 430th, he would probably have been at least a lieutenant colonel at that time—we are talking about 40 years, the individual would be 90 or above at this date.

Senator SPECTER. Well, now, he wouldn't necessarily have been in his fifties as a lieutenant colonel; he could have been 37 or 38 as a lieutenant colonel.

General ODOM. He could have been younger, sir.

Senator SPECTER. Well, I wouldn't presume that he was dead.

Ms. BOGGS. We are not presuming that he is dead, but we are just making known the fact of our efforts at this stage and our inability to date to ascertain the identity of the commanding officer of the 430th CIC Detachment.

Senator SPECTER. Well, let the word go out today that if the commanding officer of the 430th CIC hears about this, let him come forward.

General ODOM. We will be delighted to have him.

Senator METZENBAUM. Do you think television may be better than the Army's records?

Senator SPECTER. It's a terrific investigative tool—it spreads the word far and wide.

Senator METZENBAUM. It does.

Senator SPECTER. All right, the long and short of it, General Odom, is that the Department of the Army will pursue this with vigor, to try to find out what happened to Ben Gorby's letter.

General ODOM. Absolutely, sir.

Senator SPECTER. Has the Department of the Army sought to question Mr. Gorby?

General ODOM. I do not believe we have, sir. We have ascertained his whereabouts, which I believe is in Israel right now.

Senator SPECTER. You have not questioned Mr. Gorby?

General ODOM. No, sir.

Senator SPECTER. Are you making an effort to question Mr. Gorby?

General ODOM. Sir, I am not in the middle of the investigative activities of OSI. What we are attempting to——

Senator SPECTER. Well, I am asking, General Odom, what the Army is doing, not what OSI is doing.

General ODOM. No, sir; we are not, to my knowledge, attempting to bring Mr. Gorby here for testimony.

Senator SPECTER. No, I am not asking you whether you are bringing him here for testimony. I am asking you whether you are making any effort to talk to him, or have someone talk to him?

General ODOM. Not to my knowledge, sir.

Senator SPECTER. General Odom, do you believe that the Department of the Army has an obligation to go forward at this point and find out what happened with the information brought to the Army back in 1947 about this matter?

General ODOM. Yes, sir; absolutely, as much as we can. That is our intent, sir.

Senator METZENBAUM. That concerns me a bit, General, because on a previous question you responded somewhat differently. You indicated that the Army would go forward if requested to do so by the Department of Justice. I think the thrust of Senator Specter's questions, which have now brought us around to the point where you say the Army is prepared to go forward, is: Has the Army gone forward? You are the Assistant Chief for Intelligence of the U.S. Army, and I sit here and I say to myself, if our intelligence is such that we can't find who the commanding officer was in Vienna in 1947, if our intelligence was such that when we responded to Canada we didn't provide them with any information concerning the Gorby letter—all we did is gave them a very short two paragraph response, if the information is such that you only will act if this committee requests you to do so—I am wondering how you interpret to us or spell out for us what is the Army's responsibility in this area, and, absent prodding by Senators or this committee, am I to believe that the Army would have done absolutely nothing on this subject?

General ODOM. Sir, I think you are somewhat distorting the enthusiasm we have to support the investigative activities. Intelligence activities in the Army tend to focus daily on current events. The records check issue belongs to another set of agencies within the Army; therefore, it is not something with which I am daily familiar or working.

I would say that we have many, many tasks, many, many activities we have to carry out. We get thousands of requests for Free-

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dom of Information Act releases, and we frequently go into the files. And I think our record in the past in other cases has been reasonably exemplary in trying to track down documents and coordinate, to the extent possible. I think at some point one might run into the issue of how one allocates one's resources overall within the Army.

Senator SPECTER. General, let me interrupt you. You see, that is precisely the point. The point is that the Army didn't do anything about this letter in 1947. If the Army had done something about this letter in 1947, there would have been an answer to this letter.

It seems to me that when the Army finds out about a letter, even if it is in 1947, inquiring about the action taken as to Mengele, that the Army ought to become active about it and ought not to start thinking about how old the commanding officer was, that he may be in his nineties, which really is not logical, or ought not to be responding about the Freedom of Information Act requests you have in the other priority items. It is time that the Army gave some priority attention to Josef Mengele, and the Army should have given this attention in 1947.

And I think it is a very sad commentary that no answer was given to this letter.

Now, there could have been an answer, and it might not be in the records today. But the presumption is that if this letter is in the records, that had there been an answer, that answer would have been in the records. And this supports the thought that the Army didn't give much of a damn about Josef Mengele in 1947.

My question to you is: How much do you care about Josef Mengele in 1985, and what are you doing about it?

General ODOM. Sir, in answer to your question, we are doing as much as I think could be reasonably expected in the records research and check of our holdings. With regard to further investigations, if it is the view of the leadership of the Army and the Department of Defense that we should go further into that, we will do that with vigor.

I would like to comment about the 1947——

Senator METZENBAUM. General, let me——

Senator SPECTER. Wait, Senator Metzenbaum, you will have your turn in a minute. Go ahead, General.

General ODOM. I want to make a point, sir. In 1947, you have got to realize that a lot of other things were going on in 1947. We had just invaded the country, the CIC detachments had a number of missions to look after, including the tracking down of these sorts of people. They did track down and catch large numbers of them. I regret very much that there was not a followup apparently on this letter, and that Dr. Mengele was not apprehended.

I think you kind of mislead listeners about the Army's intent here by suggesting that we felt differently about it. The Army, I don't think, is really the culprit in this activity; the Army has done a great deal to make it possible to have these kinds of hearings. And we will continue to support these matters.

Senator SPECTER. General, I don't think that this subcommittee is misleading the public at all. I think it is perfectly apparent that the Army didn't pursue the matter in 1947, and I don't see a whole

lot of interest on your part—and I say this to you candidly and eyeball-to-eyeball—in pursuing the matter now.

I don't consider it a sufficient response for a lieutenant general, and the Assistant Chief of Staff for Intelligence, to say to this subcommittee that you will pursue it if the Chief of Staff and if your Army superiors think you should. You are not a private, you are not a corporal, you are not a lieutenant—you are a three-star general. It seems to me you have the responsibility to take that initiative and to pursue it, and that when you know about a letter that exists like this in 1947, that the first question you ought to ask and you ought to demand some answers for, is what effort has been made to find out who this commanding officer is, and not to come to a Senate subcommittee hearing and say you don't know and be prodded by somebody on your staff as to what's going on.

I know the Army had a lot of things to do in 1947, but when a letter is written about 20 Jewish children and their parents are looking for them, there is an affirmative duty to find out. That duty continues to this day.

And as a matter of very basic investigative materials, two things ought to be done on the face of this letter. One is to find out who the commanding officer is, and the second thing is to talk further to the writer of this letter, the man named Gorby. That is the starting point. And there is a lot more to be done beyond that—but that is the starting point.

Now, my question to you is: What kind of a priority do you in your capacity give to followup investigation as of this moment to find out what the Army did in handling these leads as to Mengele in 1945 and 1947?

General ODOM. We give it a very high priority, sir.

Senator SPECTER. Well, I am glad to hear that, General, I'm glad to hear it. Are you familiar with the testimony—and I don't want to go on too much longer, we have a great many witnesses to hear—are you familiar with the details as to what Walter Kempthorne had to say?

General ODOM. In general, sir.

Senator SPECTER. Well, do you know that he identified himself as a 19-year-old private in the Army, that he was at a specific camp and that he said that he saw a man who was identified as Mengele? Do you know that much?

General ODOM. I know that, sir. As I said in my testimony today, that is new to us. We welcome that information, and we will use it in any way we can to uncover additional information.

Senator SPECTER. Well, what action has the Army taken on the information provided by Kempthorne?

General ODOM. One of the first things we did was to look at his service record to be sure that he was in the Army, and we have confirmed that. You know, any one could make an allegation.

Senator SPECTER. What else has been done?

General ODOM. That is fairly recent, sir. We are looking for evidence about other people at Birkenau. A number of record checks are underway now to uncover more information.

Senator SPECTER. Has the Army talked to Kempthorne?

General ODOM. Not to my knowledge yet, sir.

Senator SPECTER. Do you intend to?

General ODOM. We shall.

Mrs. CRAWFORD. On that point, Senator, let me say that I talked to the Office of Special Investigations last Friday. They expressed an interest in speaking with Mr. Kempthorne directly and should be in touch with him shortly.

Senator D'AMATO. You know, Mr. Chairman, if I might—because I share a certain amount of frustration, as I think maybe the chairman does——

Senator SPECTER. Senator D'Amato, I think maybe we better go to Senator Metzenbaum next, and then we will come back to you.

Senator D'AMATO. Well, just on this point, if I might ask for your indulgence—60 seconds. That's not the way you do it. I mean, the fact of the matter is that, sure, you ask OSI to come in, they have got to be involved, and we would understand that they would do this. But the question is: Who was the commandant of that camp, what was the name of that camp, who were the officers in that camp, who can lead us with more specificity to uncover whether or not Mengele was there? You have got a private who comes in and says, look, here is what people told me, I want to tell you something. Both Senator Specter and I had the opportunity to speak to Mr. Kempthorne. He is absolutely totally believable 100 percent—a graduate engineer from Stanford, worked for a large company, is a very low-key fellow. Should you brief him? Certainly you should brief him.

But we would hope—and I have been given to understand, and I hope it's true—that you are already beginning to undertake the investigation, that you would start from the point of information he gives you. You know right away he is a private over there, the records check out, you know that he served there. We have got pictures we have provided you with. We have got his serial number that we provided you with. We didn't send you on an empty goose chase here. I am just suggesting—I say that is not the way you show a real interest in getting to the bottom of this.

General ODOM. Sir, the investigation began last week on this.

Senator D'AMATO. But you understand what I am talking about, if the investigation starts by you going to OSI, that is not an investigation. If you are going to do the kinds of things that you should—everyone here has practiced law, we have been involved in investigations both on the criminal side and on the civil side, and I would suggest that these three Senators here understand how you undertake an investigation with some real vigor and in the correct manner.

Senator SPECTER. Senator Metzenbaum.

General ODOM. Sir, I would like——

Senator SPECTER. You may respond, General.

General ODOM. I would like to be as responsive and as enthusiastic to cooperate in these followup investigations as possible. I am not really sure what is intended by the apparent implications here that we are less than enthusiastic about following the investigation.

Senator SPECTER. Well, General Odom, we are simply asking you questions as to what you have done. It is the sense that has been expressed here today not only by myself, but by Senator Metzenbaum and Senator D'Amato, that the Department of the Army

has an independent duty here. This is an Army matter. This man was in the custody of the Army, according to substantial evidence which has been obtained. And that we do not believe it sufficient to say that some other branch, the OSI of the Department of Justice alone, is sufficient to handle it.

The U.S. Senate doesn't feel that way, I don't feel that way about our hearing, and we are asking what you have done. And, speaking for myself, when I see a letter that comes to my attention, I want to know what was done and when.

I believe that no action is sufficient unless there is a sense of urgency, and it starts the minute a responsible governmental official like you or me sees this letter. When you hear about Walter Kempthorne, the first thing I would do is give a direction that Kempthorne be questioned.

Senator D'Amato and I had a chance to question him briefly, but it takes time to really question somebody. The appropriate questioning of Mr. Kempthorne would take 2 or 3 days to really probe and get to the bottom as to what he could say. We have been involved in investigative work.

General ODOM. I agree with that, sir.

Senator SPECTER. And it is especially problemsome because of the overtone that on the entire Holocaust the U.S. Government sat back. This goes back to 1942, to what President Roosevelt did, to what this country did, in ignoring the Holocaust and the murders of 6 million Jews. Then you have a specific letter in 1947, referring to 20 Jewish children, and nothing was done.

Subsequently it comes to light in 1985, and again nothing was done. Or at least not immediate action to indicate a real concern and a real caring. And that is what our point is.

We realize you have a great many other responsibilities, but we don't think anything should take priority over attention to a matter of this sort.

Senator Metzenbaum.

Senator METZENBAUM. General, I will be very brief. Others have said it in their own way. My own feeling is that, absent this hearing, the Army wouldn't have done very much at all. And it is disappointing that you have not brought to this any zeal, any positive effort. And you appear here this morning, and I am frank to say to you that I have a lot of respect for the Office of Intelligence in the Department of the Army, and when we ask you questions, I have to say either you are very laid-back or you really are passing the buck.

Since you have been here this morning, you have told us the OSI is doing something—not you, the OSI is doing something. You said "we will do something if the Department of Justice asks us to." You say that as to records, well, we are in intelligence, that is not in our department, that is somebody else that has that responsibility. And you say we will go further if the Chief of Staff or my Army superiors tell us to.

It disturbs me that it takes a Senate hearing to get the message to the Army as to what they should be doing, and to emphasize to me, if I may say so, somewhat embarrassingly, that the Army hasn't been doing.

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Now, it would be bad enough if we were blaming somebody in the Army in 1947 for that which wasn't done, but there isn't hardly a scintilla of evidence that your office, those working with you, have had any movement, have had any sense of urgency, have had any sense of affirmative action in connection with this issue.

So I say to you I am in no position to abrade the Army or anything of the kind, but I can tell you, as a U.S. Senator who has a lot of confidence in our military leadership, this is very, very disappointing that the Army has not seen fit to act, and by every indication given here this morning would not have acted affirmatively to help find Dr. Mengele or even to examine into where he was 37 years ago in 1947.

And it bothers me. And, frankly, I feel sort of a sense of letdown that this is the Office of Intelligence of the U.S. Army, and that nothing more has been done.

General ODOM. Sir, I am sorry that you draw that inference. I think it misrepresents the vigor and the interest and the sense of responsibility we have about the matter, and I apologize for not being able to convey that more vigorously. And I assure you that we will pursue this issue.

Senator METZENBAUM. Thank you, General. Mr. Chairman, one question—I am just told by staff that the OSI refused to send a witness today.

Is that correct? Were they requested to send a witness?

Senator SPECTER. They were.

Senator METZENBAUM. And why did they refuse? Did they indicate?

STAFF. Pendency of the investigation.

Senator METZENBAUM. Mr. Chairman, I would like to suggest that we have another hearing and insist that they come forward. That question of the "pendency of investigation" is as if it were going to affect our relations throughout the world or something. I think that is hogwash. It is the same kind of an answer that you were suggesting when you said where you have a lawsuit pending, therefore you don't want to divulge the information.

I think that the OSI owes us the information, and I don't think you are going to finish today, or this morning, anyway, and I would like to request specifically that the OSI appear before this committee.

Senator SPECTER. I think they should appear, but I don't think it does a whole lot of good to talk about it in their absence, so we will talk about it to them in their presence.

Senator METZENBAUM. Very good, but you indicated that by publicity, you help to get the facts accomplished in connection with finding Mr. Mengele, and maybe it will help us find the OSI as well. [Laughter.]

Senator SPECTER. General Odom, do you know the whereabouts of the OSI? [Laughter.]

General Odom, we appreciate your being here, and we appreciate your being here, Mrs. Crawford. We look forward to the follow ups on the specifics. I think there will be another hearing, and we will give you another opportunity to give us specifics as to what you have done by way of followup investigation, because that is really what we are concerned about.

Thank you very much.

I would like at this point to read into the record a letter from Senator Carl Levin who had wanted to be here, but could not, and ask that I read a letter from him dated today:

DEAR ARLEN: I commend you for the efforts that you are making to bring the notorious Josef Mengele to justice, and I share your concern that all the agencies of the U.S. Government may not be doing enough to locate this war criminal. So I personally raised this matter with the Director of the Central Intelligence Agency, William Casey, when he appeared before the Armed Services Committee on February 5, 1985.

I asked the Director two questions: (1) Did the CIA know of Dr. Mengele's whereabout? (2) Would the CIA help find Dr. Mengele?

The answers to these questions are classified. I am seeking to have them declassified, and I hope that your subcommittee will join me in that effort.

I also urge the subcommittee to call witnesses from the intelligence community, especially the CIA, to put on the record, the public record, what they do and do not know about Dr. Mengele and his whereabouts, and to determine whether all components of our government are cooperating fully with each other and providing all necessary assistance, and whether all are being used fully to find Dr. Mengele.

Sincerely, Carl Levin, United States Senator from Michigan.

I would like to call now Mr. Mark Berkowitz, president of Candles from New York, and Mr. Ernest Michel, executive vice president of the United Jewish Appeal Federation of New York.

Mr. Berkowitz is president of an organization called Candles, composed mostly of twins who survived Auschwitz, and we are looking forward to Mr. Berkowitz's testimony not only about his personal experience with Mengele, but also as a participant in the hearings in early February in Jerusalem at which a number of twins testified about their experiences with Mengele.

Also, just prior to these hearings, he was active in the 40th anniversary trip to Auschwitz for survivors. Mr. Berkowitz, as I understand it, went to Auschwitz as a child with his twin sister, and, because he had blond hair and blue eyes, he was selected to be Mengele's "gofer." He was a subject of some of Mengele's experiments, and he was 13 years old when Auschwitz was liberated.

Mr. Ernest Michel presently serves as executive vice president of the United Jewish Appeal Federation in New York, and is chairman of the first world gathering of the Holocaust survivors in June 1981 in Israel. He spent 2 years in Auschwitz serving as a male nurse in the prison hospital, and, according to the information provided to me, Mr. Michel will describe his two main encounters with Mengele, first in the selection process, where Mengele decided who was to die, and who was fit to work and be experimented upon, and second the time that he brought Mengele six or eight women for certain experimentation which Mr. Michel will describe.

Gentlemen, we very much appreciate your being here. We realize that these are very difficult matters, but we think it vitally important that the information be brought before the public and put on the record in this proceeding.

Mr. Berkowitz, the floor is yours.

## STATEMENTS OF MARK BERKOWITZ, PRESIDENT, "CANDLES," NEW YORK, AND ERNEST MICHEL, EXECUTIVE VICE PRESIDENT, UNITED JEWISH APPEAL FEDERATION, NEW YORK

Mr. BERKOWITZ. OK, I don't know how to start and where to start, but I would like to say to all of you ladies and gentlemen

that it is high time that we brought it to the American people, to the free world, and to humanity.

It's not 40 years, it's a moment ago—it's a moment ago that a little boy with his family arrived, with his mother, little twin sister, grandparents, and aunts and uncles, to a place called Birkenau. We arrived—it was a late afternoon.

So I tried to find somewheres a little crack in the wagon board, cattle car train, so I could see where we are—everybody wanted to know where we are. And, of course, when I looked out, I happened to be looking at the section where F-lage, F2F—and that was, of course, the hospital camp. The next you had Kanada and the gas chambers and the crematoriums.

When I saw what I saw, I said to my mother "Mother, 1941 was nothing compared to what we are going to experience now," and so with that we decided to rest, because nothing seemed to have happened. And around 11 or 12 at night, midnight, a burst of light came out like some kind of a scene that you find in a studio in Hollywood, and all kinds of screaming and yelling and cursing and barking and shooting, and ultimately our car's seal must have been snapped, because the cars when they left with the transport were sealed by the SS on the outside, so that nobody could touch them.

And as the door opened—the banging of the door was very strong, and, since it was late, people sort of tried to make themselves somewhat comfortable but not really comfortable, and I thought that the best thing for me was to jump off. And when I jumped off—and having been a little boy that walked alongside tracks in the old country, in Czechoslovakia, I knew that the stones were not sharp, they were basically dull stones. Here, I suddenly felt like I was walking on glass.

So I urged everyone to be very cautious, and I helped my little twin sister and my mother and my grandmother and all the other people before it became a stampede. You have to realize that everything was made so that your mind would be totally, totally lost. It became like a stampede, that people were looking over other people's heads, and the SS were abusing and using foul language and all that.

And suddenly a man grabbed me and pulled me into a line of other men. For a moment I couldn't understand it except to assume that they are trying to do something good for me. So I stood there for a few minutes, trying to see where my mother was and my twin sister and my grandmother. I saw a Red Cross truck and they were trying to get people to go on the truck; these were ill people, these were invalids, these were old people, or people that had gotten sick in that cattle car ride.

And I saw that one person couldn't step on to that ambulance, so one SS man grabbed the head and another one grabbed the two feet, and they literally threw that person like a corpse onto the truck.

With that, I broke loose from the line, got butted by an SS man, ran looking for my mother and, luckily enough, she was wearing light-blue, like a turquoise, navy trimming, white polka dot dress.

So I said "Mother, this place doesn't smell kosher." And she said to me "My child, this is not a place you run back and forth." I said "Mother, let's see if we could go where there is some kind of assem-

blance," because the doctors, the officers, the people in charge of the camp, were dressed beautifully, and they were standing there waiting for a little calm, a little order, you know, of calm.

Senator SPECTER. Mr. Berkowitz, I don't want to hurry you unduly. We are going to have to conclude our hearing by 12:30—it is now 11:50. And we have witnesses from California.

Mr. BERKOWITZ. You want me to be very brief.

Senator SPECTER. I would like to hear all of what you have to say—and perhaps we can do it later—but it would be most helpful to the subcommittee at this moment to hear about Mengele, that's really the focus.

Mr. BERKOWITZ. OK. Well, what happened, my mother must have lost her mind or just looked up to the sky and started screaming "You want to kill me, you want to take me—but don't separate my twins," and within a few moments a couple of SS men were there. They treated us very politely, with a great deal of care, and they told us to follow them. We followed them to a certain section of the ramp, and they apologized for leaving us there, but they had to get someone. And then the next thing Dr. Josef Mengele walked over. You have never seen a more beautiful polite person; he spoke—it sounded like poetry; he apologized to my mother for the harsh treatment—and they will be reprimanded—but he said: one question—your son is blond and your daughter is like a gypsy, can you explain that? She says I can only tell you one thing, that I had one bellyache.

And with that he ordered us into a special section. Within a short while we were taken out of that area to a camp that was set up primarily by Dr. Josef Mengele, called bayts-y-bay that was the Red Cross camp, so family was there, from Theresienstadt—it was even referred to as the Theresienstadt in Birkenau, Auschwitz. And he said he would see us in a few days. Two days later he showed up, and he asked me if I would be willing to act brave, as I acted on the ramp, which he must have seen, and he said that I want to give you something that you will have for the rest of your life, and I will make it beautiful. He gave me the number, he literally branded the number on my arm, which is still there—and it is beautiful.

Four days later the experiments started. Again, he told my mother that we will be well treated, that he has a curiosity, and that we will be treated with exceptional care, that anything and everything we need we should just tell him, and that we are right now in temporary quarters.

Four days later I walked into a barrack in bayts-y-bay, and, I will never forget, as I entered the barrack door, which was narrow, I suddenly saw the width of the barrack inside and I saw a table that must have been approximately three-quarters of the size of this table, on one side; and on the other side a same-size table with a type of burlap or a muslin sheet running from the ceiling down in between. I was about three-quarters back, and he told us to lay face down, and the next thing I knew that they were, you know, sort of like checking my spinal area, my vertebrae area, and I felt a very sharp instrument, and then the next thing I just fought to keep my consciousness, and I whispered to my little twin sister: Just bear with it.

Senator SPECTER. What happened to you?

Mr. BERKOWITZ. For about half an hour I felt paralyzed, but I could hear voices, and I heard them say that the fluid is not clear enough and we will have to try it again.

Senator SPECTER. What was done to you?

Mr. BERKOWITZ. I was 12 years old, I was a guinea pig, I was a Jewish child—I never asked.

Senator SPECTER. What was done to your sister?

Mr. BERKOWITZ. The same exact thing.

Senator SPECTER. What effects were there on you?

Mr. BERKOWITZ. Well, I had since then multiple surgery; I was 90-percent paralyzed. I know for a fact that I could never bend over, never mind bending back—I could never move my back as I would like to.

Senator SPECTER. Do you know what, if anything, Mengele did to other children? Do you know whether Mengele performed experiments on other children?

Mr. BERKOWITZ. Definitely, that barrack was packed with children, guinea pigs.

Senator SPECTER. How many children?

Mr. BERKOWITZ. I would say that there had to be at least 200 children.

Senator SPECTER. What happened to them?

Mr. BERKOWITZ. Some of them were carried out, some in bloody sheets, some of them were carried out——

Senator SPECTER. Dead?

Mr. BERKOWITZ. I did not check to see if they were dead, but——

Senator SPECTER. But you saw bloody sheets.

Mr. BERKOWITZ. Yes, they were wrapped up. Of course, in future, when he made me his "Laufer," I could experience these things, because I literally had to carry organs and——

Senator SPECTER. He made you his lover?

Mr. BERKOWITZ. "Laufer" not lover.

Senator SPECTER. His "gofer."

Mr. BERKOWITZ. Yes. "Laufer" in German is, you know, like a messenger, a "gofer," yes.

He loves me, that much I can tell you—I don't love him.

Senator SPECTER. If he loved you, he had a strange way of showing it, didn't he, Mr. Berkowitz?

Mr. BERKOWITZ. Well, if you would ever get the opportunity to have this man, you know, brought to justice, you would not believe what personality—he could be so gentle.

Senator SPECTER. Do you think you could identify him if you saw him today, Mr. Berkowitz?

Mr. BERKOWITZ. Oh, no problem.

Senator SPECTER. No problem.

Mr. BERKOWITZ. No problem.

Senator SPECTER. You are prepared to testify?

Mr. BERKOWITZ. Of course, it's my duty. After all, the ultimate thing that he did, he promised that he would try to spare my mother—not knowing what he meant, but understanding what he meant. When he eliminated—he personally eliminated the bayts-y-bay camp in two sessions; in the second session, I was picking brussels sprouts for him, because he had us make a garden for him

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where we grew brussels sprouts for him, and while picking the brussels sprouts, it was like noon time; by 1 o'clock I saw a line of women, and suddenly I recognized my mother in the line, and I knew that if she passed the gate of F-lage, that was it—nothing beyond that point, the next thing is that big gate that takes you to gas chamber 5 or 4. I knew that once one woman passed that barrack, the SS barrack outside, that was it.

Senator SPECTER. Did she pass that barrack?

Mr. BERKOWITZ. The woman passed that barrack; with that, Mengele stepped out of his quarters, because he wasn't too far away, and he said to me: I have an errand for you to run. That meant that I could report out—and literally walked my mother to the gas chamber.

Senator SPECTER. That was the last that you saw of your mother?

Mr. BERKOWITZ. The next thing I saw smoke, flame and smoke. I wasn't supposed to say kaddish—I was too young, I wasn't a man yet. But I said whatever I could say, and I promised my mother not to be a hateful person, because she didn't want me to be so. From all I had seen at that point, she asked me not to be a mad person, to love God, to love humanity, and to seek justice. So I am not here out of hate or vengeance.

But I am here—it is very important for you gentlemen to know—I am here for my brother and all the soldiers that served in that tragedy, who gave their lives—not that this man should be free. What kind of a cemetery do we have when we look at Normandy? What did they die for? So that this man could live and be free? The man is a free man.

So I beg you, please, for the sake of future generations, for my grandson, not for me, and for the little pitzulim [phonetic], the little babies, that I saw march every day to the gas chamber. Help us, bring this man to justice.

Senator SPECTER. Thank you very much, Mr. Berkowitz—very moving.

Mr. Michel, we are very pleased to have you with us, and we look forward to your testimony.

## STATEMENT OF ERNEST W. MICHEL

Mr. MICHEL. My name is Ernest Michel. I am a survivor of the Holocaust. I spent the years 1939 to 1945 in various camps. I was in Auschwitz from 1942 till 1945. I will not repeat some of the testimony that my friend Berkowitz gave. I will only refer to two instances that I recall of a direct encounter with Mengele.

The first one was on our arrival in Auschwitz, in Birkenau. We had been on the train, a cattle car, for 5 or 6 days—many had died. We arrived on a cold winter in Auschwitz. We didn't know where we were. There was total chaos—men screaming, women screaming—"Juden, raus! Out of the cattle cars!" And there we stood.

Senator SPECTER. How many men and women were in the car?

Mr. MICHEL. Oh, I would say 60, 70—and about 10 or 12 had died.

Senator SPECTER. What was the temperature?

Mr. MICHEL. Oh, it was cold, it was Poland, it was winter 1942–43.

Senator SPECTER. How far had you come?

Mr. MICHEL. We had come from a town called Paderborn in Germany where I served for about 1½ years in a labor camp.

Senator SPECTER. How many days had you been in the cattle car?

Mr. MICHEL. About 5 days and 5 nights. No food.

Senator SPECTER. No food?

Mr. MICHEL. No sanitary facilities. We arrived in Auschwitz, beaten out of the cars. There was chaos. Then suddenly there was an announcement: men on one side, women on the other side. Slowly that line moved forward. As the line moved forward, I began to see toward the end an elegant-looking SS officer, dressed in a beautiful leather coat with a cap, and he made a motion with his hand: up, to the right; down, to the left.

We didn't know what that motion meant. Up you lived, down you died. I was lucky. I was a young kid at that time, I could work.

Senator SPECTER. Who was that man?

Mr. MICHEL. That man I was told later—I didn't know it at that time—was Dr. Josef Mengele.

Senator SPECTER. He was later identified to you as Mengele?

Mr. MICHEL. As Mengele, "the Angel of Death," Der Todesengel von Auschwitz.

Senator SPECTER. The man later identified to you as Mengele, whom you knew as Mengele, was the man who made the signals for life or death that day?

Mr. MICHEL. On our arrival. I will not talk about the experiences in the camp—I think this has been talked about before, and I appreciate the time element that you are working under. I have a statement that I have submitted to your committee.

Senator SPECTER. Yes; we will make that a part of the record.

Mr. MICHEL. I will only talk about my experience the second time with Dr. Mengele. Let me tell you briefly how it happened.

I was down to a skeleton, having worked in the I.G. Farben factory that was supposed to manufacture Buna, artificial rubber. I received a head injury, and was taken to the prison hospital. Everyone dreaded going to the hospital, because it literally meant "Being sent up the chimney." You only went if you had no choice.

By a curious coincidence—that day they needed somebody with a good handwriting—so I was asked to sit down and write: heart attack, heart attack, heart attack, heart attack. Every prisoner, every inmate that came to the camp that was gassed, according to the German records was listed as having died from a heart attack.

I eventually became a male nurse in the prison hospital, and that saved my life.

During that time—and I am coming to the incident referring to the experiments—I was told by the Block Eltester, who was named Dr. Bujachek, a Polish doctor, to report to a certain barrack in order to assist some inmates who were being taken into the barrack—I wasn't told what for.

With one other inmate, I went to the barrack, and a truck arrived, and in that truck were eight women. I recall one particular one: a young, Jewish, Hungarian girl, in her teens, who was frightened—in my German, in my Yiddish, we talked about it, and I asked her "where did you come from"; she said "I was brought in yesterday and came on a transport from Hungary". "What hap-

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pened to my parents," she asked me. I told here I didn't know what happened to her parents.

There were other women in the truck, and one by one we took them into the barrack where I recognized a number of the camp doctors, including Dr. Mengele, who had been a number of times in the camp where I had seen him. We took the women into the barrack, one by one, and then left. We were told to wait outside.

After about an hour, an hour and a half, we were told to return and remove the women. Of the eight women, two were dead, including the young Hungarian girl with whom I spoke. Two others were in a coma; four were unconscious. I knew that some experiments had taken place, because the last woman was still attached to an instrument, with electric wires directly connected to her.

We took them out one by one, put them on the truck, and that was the end of my experience in the experiments that Dr. Mengele performed in Auschwitz. And, as difficult as it is, I wanted to come and talk about it, and to ask you, as did my friend Berkowitz, in the memory of my family who died, my parents, the 6 million who were annihilated, to see that the United States help to bring that man, if you can call him that, to justice—finally. Thank you.

[The prepared statement of Mr. Michel follows:]

## Prepared Statement of Ernest W. Michel

Mr. Chairman, Members of the Subcommittee:

My name is Ernest W. Michel. I am a survivor of the Holocaust having spent the years 1939 to 1945 in various forced labor and concentration camps, including the infamous Auschwitz, BUNA/Monowitz, and Buchenwald. I was deported from my hometown, Mannheim, Germany in September 1939, shortly after the outbreak of World War II. I was 16 years old at the time. My parents were deported to France in 1940; from there to Auschwitz in 1942 where they were killed. In 1981, I served as Chairman of the World Gathering of Jewish Holocaust Survivors which took place in Jerusalem, Israel. I am an American citizen, having come to this Country in 1945 under the Harry S Truman Displaced Persons Act. In my professional capacity, I serve as Executive Vice President and Campaign Director of the United Jewish Appeal-Federation of Jewish Philanthropies Campaign in New York.

I arrived in Auschwitz the Winter of 1942-43. I had never heard the name Auschwitz; I certainly knew nothing about what it represented. I found out soon enough.

We arrived at night, after spending approximately one week locked up in cattle cars. It was a horror: we literally were herded in like cattle; the cars were filled to capacity; we received little food; sanitary conditions were non-existent. Many died in transit.

In retrospect, all that comes to mind is that our arrival in Auschwitz was like a scene out of Dante's "Inferno." All around were shouts by SS men: "Juden-Raus!" and barking, biting dogs. We were in a state of utter confusion; there was crying, screaming, mass hysteria. After a while, public announcements were made directing men to one side; women to the other. Other than that, all we knew was that we were surrounded by barbed wired fences.

The men and women were separated; the men were placed in lines, the women on trucks. The vision of husbands and wives, parents and children being torn apart -- the tears, the screeches, the frenzy -- still haunt.

The line moved forward slowly. It was then that an elegant but fore-

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boding-looking SS officer in a long black leather coat and gloves, with SS insignias on coat and cap, began directing us by thumb: some to the left, some to the right. We moved like automatons, no one knew what was happening.

We learned from older camp inmates that we were in Auschwitz; that the officer who conducted the selection process was Dr. Josef Mengele; and that the people sent in the other direction had been gassed. My reaction was one of numbness, utter disbelief. We were told to undress. Our clothes were taken away. All of our hair was shorn. Numbers were tattooed on our left forearms (mine is 104995). We received striped prison uniforms and caps. This is how I recall my arrival in Auschwitz and my first encounter with Dr. Mengele.

After a few days, some of us were transported to Auschwitz II or otherwise called Auschwitz/BUNA or Monowitz. This was a sub-camp of Auschwitz and located next to the IG Farben Industrial Complex. Its purpose was to produce Buna (artificial rubber). I will not describe life in the camp; those reports are legend. I will briefly refer only to my personal experiences.

Following several months of heavy construction work with very little food in the IG Farben Complex, I was reduced to a skeleton. Friends were dying all around. Those too weak to walk were shipped to Auschwitz/Birkenau to be gassed. These selections took place every day. Those of us still alive were resigned to die sooner or later, there was no hope to escape.

Yet, some of us kept going, hoping that a few would survive. Our greatest fear, aside from dying, was that nobody would be alive to tell the world what was happening in Auschwitz -- annihilation on a scale unprecedented in history.

In the Summer of 1943, I was injured while doing the construction work to which I was assigned and had to go to the prison hospital for treatment. We all were petrified of the hospital; we knew that anything other than a superficial wound resulted in being "sent up the chimney." Because of my handwriting ability -- I had learned calligraphy as a student -- I was assigned the responsibility of recording the names and reason for death of the thousands of inmates who were to be decreed as having died from heart

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attacks. I still remember writing: heart attack ... heart attack ... heart attack ... hour after hour, day after day!

A few weeks later I was made a regular medical assistant at the hospital. I was assigned to the dysentery unit where I worked until the evacuation of the camp in January 1945. Prisoners died like flies; malnutrition, severe diarrhea, high fever. Every day we put them on trucks, those dead and those barely alive. All were taken to the crematoria or gas chambers. It was because of my stay in the prison hospital that my life was spared.

Some time during the Spring of 1944, the SS officer in charge of the prison hospital told me and one other male nurse to report for a special assignment. We were told to be in front of the hospital compound barracks to take inmates from a truck to the barrack and return them later to the truck.

When the truck arrived I found six to eight women in various states of despair. Among them was a beautiful teenage girl from Hungary with whom I spoke in Yiddish and German. She told me she had arrived the day before with thousands of other Jews from Hungary; that she had been separated from her family; kept in isolation; and brought to our camp without any knowledge of why. She obviously was very agitated and fearful. Other than that, she seemed in total command of her faculties. Some of the other women appeared more distressed. Several were screaming.

We took the women, one by one, into the barrack where a separate room had been fixed up. A number of SS officers were in the room. Among them the prisoner responsible for the hospital. His name was Bujachek. Since I went back and forth into the room several times I saw the faces of the officers and recognized Dr. Mengele as the officer who conducted the selection process on our arrival in Auschwitz. Besides, he had been to the camp a number of times.

After we had taken each of the women into the reception room, we were told to wait outside. We waited for over an hour and then were summoned back to remove the women. In the room where the "medical services" were performed one woman was still connected to an electrical machine which was next to the cot on which she was placed, presumably for electric-shock

experimentation. We had been instructed to have a stretcher ready in order to carry the women out, one by one. We found two of them dead, one was the Hungarian girl; two obviously were in a coma; the others were breathing hard and irregularly. None were conscious. I noticed that the teeth of those still alive were clenched and that wads of paper were placed in their mouths.

Auschwitz and its various subcamps were evacuated on January 18th. I was transferred three times after the death march during which hundreds of inmates died. I was sent first to Buchenwald and then to Berga. On April 18, 1945, on a transport from Berga to an unknown destination, two friends and I escaped. I arrived in the United States in July 1946.

Having lost my entire family, with the exception of my sister, in the Holocaust, having borne personal witness to the savagery and inhumanity of the Nazis during my years in the camps, and being one of the relatively few who survived, I come before this Subcommittee to testify to the best of my knowledge and recollection about the abominable acts of Dr. Mengele.

I am here today on behalf of all those who survived and those who did not, including my own parents. I remain fully conscious of their pain, their degredation, their anguish. Josef Mengele was a key element in the evil perpetuated in Nazi Germany. His role and name were known to everyone in Auschwitz.

There is another reason why we, the survivors, must speak out. Efforts are being made -- in America and other countries -- to deny the reality of the Holocaust. After losing one-third of our people in the most savage massacre in Jewish history, we still have to prove that there really was a Holocaust.

No matter how difficult and trying it is to re-experience those nightmare years, I will do everything in my power to speak out until Josef Mengele and others like him are apprehended and justice is done. It is the least we can do -- and expect -- of and from a civilized world.

Senator SPECTER. Mr. Michel, specifically what did you see Mengele do?

Mr. MICHEL. When we went into the barracks, he was standing there talking to other SS officers. He was discussing with them—believe me, I didn't want to spend much time in there, the less you met Mengele the better off you were.

Senator SPECTER. But you heard what he said.

Mr. MICHEL. Well, I overheard something in medical terms to the other doctors, or officers. I did not stand there to listen what they were saying. I took the women in, put them on a cot, and then left as quickly as I could go outside.

Senator SPECTER. You were instructed to take the women in and put them on a cot.

Mr. MICHEL. I was told by the Block Eltester, by Dr. Bujachek, to be part of bringing the women into the barrack and then later on to take them out.

Senator SPECTER. And was Dr. Bujachek talking to Dr. Mengele?

Mr. MICHEL. Dr. Bujachek was there talking to Dr. Mengele.

Senator SPECTER. How many women were there again?

Mr. MICHEL. Eight women.

Senator SPECTER. And what condition were they in when you placed them on the cots?

Mr. MICHEL. When I took them in or when I took them out?

Senator SPECTER. When you took them in.

Mr. MICHEL. Some of them were in certain stages of agitation. The Hungarian girl was nervous, totally coherent, only wanting to know where her parents were, what had happened to them. Others were frightened, some were screaming.

Senator SPECTER. But all eight were alive.

Mr. MICHEL. Oh, sure, all eight were alive, and all were being brought in practically under their own power.

Senator SPECTER. And when you left the room, where was Dr. Mengele?

Mr. MICHEL. Dr. Mengele was standing there discussing whatever he was discussing with the other officers. I was in no position to stand and listen.

Senator SPECTER. When next did you see the women?

Mr. MICHEL. When we were told to come back.

Senator SPECTER. How long after you left them was that?

Mr. MICHEL. About an hour and a half, an hour to an hour and a half.

Senator SPECTER. And at that time you found some of them dead?

Mr. MICHEL. Two dead, two in a coma, and four unconscious, none of whom could talk.

Senator SPECTER. And one of whom still had an experimental mechanism attached to her.

Mr. MICHEL. To the last one, yes—still they were in the process of detaching it from her.

Senator SPECTER. Do you have anything else to tell us specifically about Mengele?

Mr. MICHEL. No, those are the only two specific instances that I can refer to concerning my contacts with Dr. Mengele.

Senator SPECTER. Well, Mr. Michel, when you asked this subcommittee to help bring Mengele to justice, the answer is a resounding

yes. I know I speak for Senator Metzenbaum as well as myself and Senator D'Amato, and the Senate and the Congress. We shall do everything we can.

Mr. MICHEL. We thank you for that.

Mr. BERKOWITZ. Thank you very much.

Senator METZENBAUM. Before you go, Mr. Berkowitz and Mr. Michel, I just want to say that I don't think I have ever heard more powerful testimony in any hearing that I have sat through in the U.S. Senate. It's one thing to read about the horrors of the Holocaust, but to hear you men talk about the specifics, it's like when we say that somebody was injured or hurt in an accident or killed, we think about it, but when somebody real, a human being, to hear you, Mr. Berkowitz, talk about leaving your mother as she went into the oven, and you, Mr. Michel, to talk about taking eight women alive and bringing them out either dead or in a coma, is very powerful.

Thank you for being with us.

Mr. BERKOWITZ. God bless America, and let's do something. Thank you.

Senator SPECTER. I would like now to call Rabbi Marvin Hier, dean of the Simon Wiesenthal Center.

Rabbi Hier has been a leader on the Holocaust movement to be sure that the atrocities of World War II are not forgotten, and has been a leader in ferreting out war criminals, and has been a leader on the efforts to locate Mengele.

We are pleased to have you here, Rabbi Hier. Your full statement will be made a part of the record, and, to the extent that you can summarize it, we would appreciate it.

## STATEMENT OF RABBI MARVIN HIER, DEAN, SIMON WIESENTHAL CENTER, LOS ANGELES, CA

Rabbi HIER. Thank you very much, Mr. Chairman, Senator Metzenbaum.

If I may, I am going to summarize, as you indicated, the statement, and place the statement on record here. But I think it's important for the first paragraph to be heard in public.

It has been 40 years since Dr. Josef Mengele, doctor of medicine, student of philosophy, and the Angel of Death, walked away from Auschwitz, the place where he attempted to play God, deciding the fate of hundreds of thousands of people, the place where during the day he tortured and maimed, indifferent to the cries and the pleas, and the place where during the night he settled in to listen to music, sensitive to its sounds and cantillation. And now, 40 years later, the world is still searching for Josef Mengele.

Mr. Chairman, we are searching for him now not because he was so clever in escaping, but because we were so remiss in allowing him to escape; not because we could not find Josef Mengele, but because the truth is we have not invested enough energy and the necessary resources to really look for him.

Permit me now to comment, first, on some of the matters which were presented to the committee with respect to Mr. Gorby. First of all, I did not know it would be a subject of discussion today—perhaps I should have—as to the names of the commanding officers

of the 430th CIC Detachment in the year of 1947. I have that information; the Simon Wiesenthal Center in Los Angeles will be happy to furnish that to the committee and to the U.S. Army. When I return to Los Angeles I will phone in the names of the commanding officers of the 430th Detachment in the year 1947, both the commanding officer, his assistant, and the person in charge of operations.

Senator SPECTER. Are they living, Rabbi Hier, do you know?

Rabbi HIER. I do not know whether they are living, but I know that somebody on the senior team is alive, because he phoned the center a number of months ago and gave me all of the names. So somebody on the senior team there is alive. I will furnish that to the committee at the earliest possible time, as soon as I return to Los Angeles.

Senator SPECTER. Thank you.

Rabbi HIER. Let me also state about Mr. Gorby, that Mr. Gorby was the officer in charge of operations. Now, that's important.

Mr. Gorby had eight agents that reported to him, eight agents of the CIC reported to Mr. Gorby. The reason that Mr. Gorby did not remember his source—I questioned Mr. Gorby at length, had a number of lengthy telephone conversations after the Wiesenthal Center located him in Israel. I might also state for the record we received no cooperation whatsoever—we tried for 2 months to go through the official channels of the U.S. Army to learn the whereabouts of Benjamin Gorby. We were told, because of privacy, they do not give out former addresses of former agents, and, finally, it was a member of the Simon Wiesenthal Center that came forward, that recognized that there was a man who also was known as Goldstein but who had a CIC name as Gorby, and he said he thinks he has his address in Israel. That is how we located Mr. Gorby.

I might also tell you the date that I had my first conversation with him was one day after the documents which were made public—but the documents were then in the hands of Israeli police. And he told me that Israeli police had had a long session with him, and had questioned him in Tel Aviv about the documents as to whether indeed it was his signature on the documents, and he confirmed it.

This is what Mr. Gorby stated about the document that he saw. First of all, the reason that he did not remember the source was that many agents reported to him; he was the officer in charge of operations of the 970th CIC Detachment. So he didn't remember after so many years the specific source, but it involved an agent of the CIC and it also involved an informer.

And on that basis here is what Gorby said. He said there are two things that a person in charge of assessing intelligence has to do in terms of the CIC. If he thought the intelligence was not noteworthy, he would file it and put it away; if he thought the source to be reliable, as he did in this instance, he took the opportunity to write to his commanding officer, both of the 970th CIC Detachment, asking permission to write a letter to the commanding officer of the 430th CIC Detachment, and he indicated this information to both of them, to the commanding officer of the 970th and the 430th.

And he said to me on the phone, if he did not consider the information to be reliable, he would have filed it. He thought the source and the information to be very reliable, and he stands by this now in 1985.

Now, that is what Mr. Gorby informed me. He said it was not his job to ask his commanding officer if there was a followup. He never heard from any of the commanding officers about this matter. But then this was not out of the ordinary, because he never heard on many things relating to intelligence. It was just his job to furnish the intelligence. That is what he told me over the phone.

I would also like, if I may, to skip certain elements of the statement, which I have entered in the record, and come to the point of the most recent information about Josef Mengele, and for that, in order to be absolutely on safe footing, I am going to read what we have learned, which begins on page 7 of the statement that I have issued today.

Now, Mr. Chairman, I'd like to place on the record the following evidence which requires further investigation. On January 30, 1985, a leader of the San Francisco Jewish community, who does not want his name disclosed, received important information from a source that he regards as highly reliable. This information was given to him by a person who formerly resided in Paraguay, regarding former business associates who, he had come to learn, were involved in international drug smuggling. As a result, he managed to break off the relationship. Two of these former associates were later imprisoned in 1982 by the West Germans on charges of drug smuggling. They are both currently in West German prisons. One of them is named Ricardo Riefenstahl.

According to the source, Riefenstahl was associated with Asuncion University. His specialty was the study of bees. Riefenstahl was identified by the source as the roommate of Dr. Josef Mengele until the time of Riefenstahl's arrest in 1982. Source has said that Mengele had taken up the hobby of collecting bees. Source emphasized that he personally knew Riefenstahl as a mild-mannered person who never drank. Source's only motivation in coming forward with this information was his guilty conscience after having read of the horrible atrocities that Dr. Mengele committed. The source emphasized this as his reason for coming forward with this information to this leader of the Jewish community in San Francisco.

The data which I received included a photograph of Riefenstahl taken in San Francisco. If information provided by the source is proven correct, it would provide West Germany with an eyewitness that Mengele continues to be protected by Paraguay even after his citizenship had been revoked. I, therefore, decided to take this matter up at my meeting with West German Minister of State Mertes on February 6 in Bonn. That meeting had previously been scheduled to discuss the forthcoming VE commemoration. A few days prior to the scheduled meeting with Minister Mertes, I had discussed the matter by telephone with the West German prosecutor in the Mengele case. I was surprised to learn, upon my arrival in Bonn, how quickly the prosecutor had acted on the information given to him on the telephone. He had brought Riefenstahl to his office where he put to him the question of whether, as an expert on

the subject of bees, he had heard of Dr. Josef Mengele, because information had been received that Mengele was involved in bee-collecting in Paraguay. Riefenstahl denied any knowledge of Mengele's whereabouts. The next day, the prosecutor brought in Mr. Fieberkorn, the other individual arrested and now held in a German prison for drug smuggling. He put the question to Fieberkorn whether he had ever heard of Josef Mengele. Fieberkorn claimed that he did not know of Josef Mengele's whereabouts, but that Riefenstahl had often spoken of Dr. Josef Mengele and knew Mengele well. Thus, the prosecutor established that there were two people now claiming that Riefenstahl had knowledge of Mengele, one being the source in San Francisco, and the other being Mr. Fieberkorn. The only other matter that remained was to find out whether Riefenstahl was merely boasting to both of them, or whether the evidence is authentic.

Source maintains that at no time when Reifenstahl imparted the information to him, was it ever given in the form of boasting. He further points out that Riefenstahl never drank and was very mild-mannered, and never sought to impress people. The prosecutor informed me that he would further investigate in an effort to determine the truth of this matter. He also raised the question that Riefenstahl was known in Paraguay as Von Riefenstahl, but that in tracing his German ancestry he did not appear to come from nobility, and thus was not entitled to the term "Von."

Mr. Chairman, the source of this information also believes Riefenstahl has a daughter in Paraguay and would never come forward with the truth with respect to Mengele for fear of what might happen to his daughter. He also has children in Germany, but his primary concern in this matter would be his daughter in Paraguay.

The prosecutor investigating this case, having already brought in Riefenstahl for questioning and mentioning the name Dr. Josef Mengele, has made it possible for Riefenstahl to pass the information back to Paraguay that he had been queried about Josef Mengele.

The prosecutor has, however, stated that if the source's information is correct, Mengele would no longer be in the same location since he was sure to know that Riefenstahl was in prison and Mengele would obviously have moved on.

Mr. Chairman, the only reason that this information is being made public today is the fact that we concur with the prosecutor's assumption that if the information is correct, Mengele would no longer be in that place. This information, if true, would totally discredit the Government of Paraguay in its claims that Mengele had left Paraguay well before the 1979 declaration of the Paraguayan Supreme Court revoking his citizenship because he had been long out of the country, and would further refocus on President Stroessner's responsibility in connection with Mengele's continued freedom.

Senator SPECTER. Rabbi Hier, what is the most recent date that your information places Mengele alive?

Rabbi HIER. According to the source, at the time that Riefenstahl went on this trip which led to his arrest in Germany, I would approximate, some time in 1982.

Senator SPECTER. And where was Mengele living at that time, to the best of your information?

Rabbi HIER. According to the source, 40 miles outside of Asuncion. And the same source said that Riefenstahl said this on many occasions, not just on one occasion——

Senator SPECTER. In Paraguay.

Rabbi HIER. In Paraguay.

Senator SPECTER. In 1982.

Rabbi HIER. From 1979 till 1982. I do not know the exact date of Riefenstahl's arrest in West Germany, but it was in 1982, and the source said up until Riefenstahl's arrest.

And here is a picture taken in San Francisco of the three of them—they apparently posed to look like cowboys. There is a picture here of Riefenstahl—and this picture was taken in San Francisco by the source at the time of Riefenstahl's visit to San Francisco. It is a poor reproduction, but I would like to enter this picture into the record. Also for the record——

Senator SPECTER. When was that picture taken, as best you know?

Rabbi HIER. There's no date. I don't believe there is a date on the picture, but I believe it was taken some time between—it would have been taken between 1979 and 1982.

Senator SPECTER. And the three people in that picture are?

Rabbi HIER. I don't know—one of them is Dollinger, and the other one is Riefenstahl. For the record, let me just state, Mr. Chairman, there is an article in the May edition of Stern magazine, a West German publication—Fieberkorn is mentioned as one of the bodyguards for Klaus Barbie. Fieberkorn, of course, is the other person who was arrested by the West Germans who told the prosecutor that Riefenstahl definitely knew Mengele very well.

Senator METZENBAUM. Would you repeat what you just said?

Rabbi HIER. In Stern magazine, there is an article on Klaus Barbie. In that lengthy article on Klaus Barbie, Fieberkorn is mentioned as one of Barbie's bodyguards, while Barbie was living in freedom in Bolivia. Then Fieberkorn later joined up with Riefenstahl and the source and some others, and Riefenstahl and Fieberkorn were arrested. I believe they were arrested for drug smuggling. The German prosecutor on the Mengele case told me that Riefenstahl was arrested for trying to smuggle cocaine from Santa Cruz, Bolivia, to West Germany en route to the United States, and was arrested by the West Germans upon arrival in West Germany. The two of them are still in person in West Germany today.

Senator SPECTER. Rabbi Hier, are you satisfied with the activities being undertaken by the U.S. Government at the present time with respect to Mengele?

Rabbi HIER. I believe that with respect to the Office of Special Investigations they have always performed very admirably in the past. Whenever they have taken on an investigation, the investigation has been a thorough one.

But I think we need to add this caution. Now that the OSI is empowered to look into the Mengele case, I assume they will be checking the documents in possession of the Army and in all other agencies of the U.S. Government.

But the question needs to be put forth quite frankly, who is going to seek to locate Josef Mengele and his present whereabouts? What investigating team or agency is going to be charged with that responsibility? It does not appear to me that the OSI in its makeup can take over that kind of operation from the CIA.

What I am trying to say is that I think that unless the President tells the Director of the Central Intelligence Agency, that in your list of priorities, put Josef Mengele way on top. I believe that we need agents in the field—and by the field I mean in the places where Mengele is reported to have been sighted, not in the United States, but in Paraguay, actively pursuing him. And the question is: Which agency of the U.S. Government will perform that task?

Senator SPECTER. Let the record show that Rabbi Hier is being accompanied by his attorney, Martin Mendelson, Esq., former Director of OSI in the predecessor office at DOJ.

Senator Metzenbaum?

Senator METZENBAUM. I was interested, Rabbi Hier, in how Riefenstahl was able to—you indicated that after he was queried by the prosecutor in West Germany, undoubtedly that information got back to Mengele.

Rabbi HIER. No. First of all, there were two assumptions, Senator Metzenbaum, and that is, first of all, he was arrested in 1982, Riefenstahl, so the German prosecutor said the fact that Riefenstahl was arrested is probably known to Josef Mengele, especially if it is true that he and Mengele roomed together. He would know that Riefenstahl is not coming back and they would probably filter through the information that Riefenstahl has been arrested, which would lead Mengele immediately to change locations for fear that Riefenstahl might tell of what he knew.

But what I said—and this, I believe, is in answer to your question—is the fact that once the prosecutor queried Riefenstahl about Mengele, then we have to assume that if Riefenstahl wants to get that information back out, that the prosecutor has asked him about Josef Mengele, since he has visitation rights and he has three members of his family that live in Germany and visit him regularly, that Riefenstahl would be provided with an opportunity of saying that the prosecutor called me in and asked me about Dr. Josef Mengele.

Senator METZENBAUM. Has any inquiry been made of Riefenstahl's daughter in Paraguay?

Rabbi HIER. The prosecutor knows about this. I don't know in what position they are to offer, if any, protection, or what. And I think that's why I am bringing to the attention of the committee, I think perhaps the United States and the U.S. Senate can be instrumental in helping the West German Government thoroughly investigate this matter with Riefenstahl and perhaps providing, if necessary, protection for his daughter, if that is what will get him to speak.

Now, I must say, I do not know for a fact—there is no way that we can state in a substantive manner that what Riefenstahl has said is true. I have not had an opportunity to speak to Riefenstahl in any way. The prosecutor has merely stated—the only thing the prosecutor told me on the phone in my last conversation with him is we now know from two people that Riefenstahl lied. There are

two people who say that Riefenstahl knew Mengele, the source in San Francisco and Fieberkorn. What we don't know is maybe Riefenstahl is a guy who likes to boast. The source doubts that and is convinced that Riefenstahl told him truthful information.

But that remains to be seen.

Senator METZENBAUM. Thank you.

Senator SPECTER. Thank you. Thank you very much, Rabbi Hier.

[The prepared statement of Rabbi Hier follows:]

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## PREPARED STATEMENT OF RABBI MARVIN HIER

Mr. Chairmen:

It has been forty years since Dr. Josef Mengele, Doctor of Medicine, Doctor of Philosophy, and Angel of Death, walked away from Auschwitz -- the place where he played G-d, deciding the fate of hundreds of thousands of people; the place where during the day he tortured and maimed, indifferent to the cries and the pleas; the place where during the night he settled in to listen to music, sensitive to its sounds and cantillation. Now, forty years later, the world is still searching for Josef Mengele.

Mr. Chairman, we are searching for him now, not because he was so clever in escaping, but because we were so remiss in allowing him to escape; not because we could not find him, but because we have not invested enough energy and the necessary resources to look for him.

To briefly review the sketchy details of what is known of Josef Mengele after the war, let me place in the record the fact that it is believed that he was last seen in Auschwitz on January 17, 1945. From there, it is believed he was driven by chauffeur back to Günzburg West Germany, the town where he was born, and where his family was of considerable influence. He remained in Günzburg either until 1949 or, according to other reports, until 1951. From there he went to South America.

Since then, there have been reports of sightings of Josef Mengele in Argentina, Chile, Bolivia, and in Paraguay, where a document reveals that he obtained Paraguayan citizenship in 1959. That citizenship was revoked by the Supreme Court of Paraguay in 1979, not because of Mengele's war crimes but rather because of a legal technicality -- he had not been in the country for a period of at least two years, and therefore his citizenship was automatically revoked. With the exception of his stay in Argentina and then in Paraguay, much of the information I have just detailed to you has never been fully documented or confirmed.

Against this backdrop, the Simon Wiesenthal Center applied on October 25, 1984, under the Freedom of Information Act, seeking all United States documents on the case of Josef Mengele. On November 7th, the Department of the Army, Freedom of Information/ Privacy Office at Fort Meade, forwarded documents including a letter dated April 26, 1947, and signed by Special Agent Benjamin J.M. Gorby of the 970th Counter Intelligence Corps, Region V, of the United States Army. This letter stated that his office had received information that Dr. Mengele, former Chief Medical Officer of Auschwitz concentration camp, had been arrested in Vienna. The agent had

received this information from an informer, and passed it on to the Chief Operations Officer of the 970th, who was Special Agent Gorby. Gorby sent this information to his commanding officer of the 970th, and also sought and obtained permission to send it to the commanding officer of the 430th Counter Intelligence Corps, Vienna Detachment.

This letter is most revealing, since it was the first time any document had made reference to a possible United States connection with Dr. Josef Mengele. Accompanying the Gorby documents were other intelligence files, including a card which indicated that Dr. Josef Mengele, Chief Medical Officer at Auschwitz, was wanted by the BAOR (British Army of the Rhine) for immediate arrest. Another card, which was almost illegible, was deciphered to read "Dr. Josef Mengele, SS Hauptsturmfuhrer, Camp Medical Officer of the concentration camp Birkenau near Auschwitz, responsible for the murder of Dr. Bernhard Mosber".

Assuming that Mosber was one of Mengele's victims, the Wiesenthal Center then filed a Freedom of Information request on November 20, 1984, requesting information on all of the aliases of Dr. Josef Mengele, and adding the additional name of Dr. Bernhard Mosber.

On December 5, 1984, the Department of the Army at Fort Meade replied that there were no files under the aliases of Dr. Mengele, but in looking under Bernhard Mosber, they located additional records and were forwarding them to us. Those records detailed information regarding the murder of a Dr. Bernhard Mosberg. It showed that Mosberg's son, who in 1945 was working for the BBC, located four witnesses that were able to attest and sign affidavits that Dr. Mengele was directly responsible for the murder of his father.

In addition to the Mosberg documents, we also received the documents involving an exchange of letters between the United States and Canada on the case of Joseph Menke. Those documents showed that the United States, replying to a Canadian inquiry for physical description of Joseph Menke, informed the Canadians that they had checked the USAREUR records, and forwarded the physical and biographical description of Dr. Josef Mengele. This exchange took place on June 18, 1962. In addition to sending the Menke/Mengele documents, the Department of the Army's December 5th letter stated that "four pages of the records" had been withheld, in accordance with various sections of Executive Order 12356, which contains provisions that "information shall be classified confidential if its unauthorized disclosure reasonably could expect to cause damage to the national security". It also provides that "information concerning foreign governments shall be considered for classification protection".

Having thus received these new sets of documents in the Mengele case, the Simon Wiesenthal Center on December 10th sent a letter to the

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Secretary of the Army, John Marsh, appealing for the release of the four documents which were being withheld. After carefully reviewing the documents, and holding preliminary conversations with White House and State Department officials, I wrote a letter to the President on December 19th, which included all of the documents and which formally called upon the United States to launch an official investigation in the case of Dr. Josef Mengele. My letter to the President indicated that until now the common assumption had been that Mengele's whereabouts following World War II were unknown to the Allies, and that he successfully avoided being arrested until leaving Günzburg, West Germany, for South America in 1951. The Gorby letter, however, indicates that the United States may have indeed arrested Josef Mengele. Only a full-fledged investigation by the Administration, and a thorough analysis of the documents held at Fort Meade would determine whether or not the United States played a role.

On January 2, 1985, Marshall Breger, Special Assistant to the President for Public Liaison, responded, informing the Center that the President had asked him to forward the documents to the Department of Defense for a reply.

On January 14, 1985, the office of the General Counsel, Department of the Army, formally replied that our appeal for the release of the four documents had been turned down and that "all four documents are properly withheld at this time". The letter went on to say that one document is properly classified confidential because "it could reasonably be expected to cause serious damage to the national security" and it concerns "foreign government information" and "intelligence activities, sources or methods".

It went on to state that although the remaining three documents had no classification markings, these records were provided by foreign governments and therefore must be reviewed by the respective governments before possible release. This constitutes final action, the Deputy General Counsel went on to say, on the part of the Secretary of the Army.

In the interim, with the assistance of a Dr. William Perl, a former colleague of Mr. Gorby, the Simon Wiesenthal Center located former Special Agent Benjamin J.M. Gorby in Israel. When the Center learned of Gorby's whereabouts in Israel, he had already been contacted by Israeli police and shown the documents which carried his signature.

Gorby told the Center in connection with the letter he had written that he was the Chief Operations Officer of the 970th Detachment of the CIC's Revion V, located in Regensburg, Bavaria, Germany. During my conversation with him, Gorby stated for the record that "there is no doubt that I considered my source of information that Mengele was arrested by the United States as fully trustworthy --

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for had I not thought so, had I not considered it weighty in my eyes -- I would not have sent out such a memo to another detachment located in a foreign country (Austria), nor would I have sought and obtained permission to do so by my commanding officer, but rather I would have simply filed the memo internally."

He went on to say that, unfortunately, since many agents regularly reported to him in his capacity as Operations Officer, he did not remember after 38 years the name of his source, but that he was fully certain at the time of the trustworthiness of his source.

On January 29, 1985, our legal counsel, Martin Mendelsohn, filed a lawsuit on behalf of the Simon Wiesenthal Center and Senator Alfonse D'Amato, United States Senator from New York, suing in Federal District Court for the release of the four documents being withheld in the case of Dr. Josef Mengele. Since then, three of the documents have been released: two deal with the case of Dr. Bernhard Mosberg, and one with the Menke/Mengele correspondence between Canada and the United States. The final document, which is a British document, has not yet been released.

With reference to the released documents, let me say, Mr. Chairman, that none of the documents shed any further light on the letter written by Special Agent Benjamin J.M. Gorby.

On February 6, 1985, Attorney General William French Smith formally announced that the United States will conduct a full investigation in the case of Dr. Josef Mengele, in an attempt to learn how he escaped, and also to ascertain his present whereabouts.

On January 31, 1985, former United States Army Private Walter Kempthorne, now a retired engineer and a graduate of Stanford University, wrote a letter to the Wiesenthal Center indicating that during his time of service in Germany, he had seen a man identified as Dr. Mengele in U.S. custody.

On February 14th, Walter Kempthorne came forward in a press conference, which was attended by Senator Alfonse D'Amato (R/NY), and the Chairman of this Committee, Senator Arlen Specter (R/PA). At this press conference, Mr. Kempthorne conveyed the following information in his statement: While stationed with the 23rd Corps of the U.S. Army, Kempthorne and a fellow security guard identified as Mr. Hall, came upon a male prisoner who was standing at rigid attention before them. This prisoner was breathing very hard, red-faced and perspiring like someone who had just finished a mile run. The two guards guarding him were southerners. Kempthorne inquired "What are you guys trying to do to him? He's ready to fall over." One of the guards replied, "We're getting him in shape to get hung. This here's Mengele, the bastard that sterilized

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3,000 women at Auschwitz." The guard then turned to Mengele and said "Come on, boy, you're good for another hundred."

Kempthorne remembered that this incident took place during the end of the first week in July 1945. He recalled the dates because he distinctly remembers his unit being relieved by French soldiers on July 14th. Kempthorne supplied photographs of himself inside the guard tower at that very camp at the time, with the inscription on his helmet reading "SG/CIC". Although Kempthorne was not able to identify the specific unit of the CIC, his testimony will allow individuals who serve in that CIC unit to come forward so that we may be able to substantiate that the individual involved was indeed Dr. Josef Mengele.

Now, Mr. Chairman, I'd like to place on the record the following evidence which requires further investigation. On January 30, 1985, a leader of the San Francisco Jewish community, who does not want his name disclosed, received important information from a source that he regards as highly reliable. This information was given to him by a person who formerly resided in Paraguay, regarding former business associates who, he had come to learn, were involved in international drug smuggling. As a result, he managed to break off the relationship. Two of these former associates were later imprisoned in 1982 by the West Germans on charges of drug smuggling. They are both currently in West German prisons. One of them, is named Ricardo Riefenstahl.

According to the Source, Riefenstahl was associated with Asuncion University. His specialty was the study of bees. Riefenstahl was identified by the Source as the roommate of Dr. Josef Mengele until the time of Riefenstahl's arrest in 1982. Source has said that Mengele had taken up the hobby of collecting bees. Source emphasized that he personally knew Riefenstahl as a mild-mannered person, who never drank. Source's only motivation in coming forward with this information was his guilty conscience after having read of the horrible atrocities that Dr. Mengele committed. The Source emphasized this as his reason for coming forward with this information to this leader of the Jewish community in San Francisco.

The data which I received including a photograph of Riefenstahl taken in San Francisco, if verifiable, would provide West Germany with an eye-witness that Mengele had continued to be protected by Paraguay even after his citizenship had been revoked. I therefore decided to take this matter up at my meeting with West German Minister of State Mertes on February 6th in Bonn. That meeting had previously been scheduled to discuss the forthcoming VE commemoration. A few days prior to the scheduled meeting with Minister Mertes, I had discussed the matter by telephone with the West German prosecutor in the Mengele case. I was surprised to learn, upon

my arrival in Bonn, how quickly the prosecutor had acted on the information given to him on the telephone. He had brought Riefenstahl to his office where he put to him the question of whether, as an expert on the subject of bees, he had heard of Dr. Josef Mengele, because information had been received that Mengele was involved in bee-collecting in Paraguay. Riefenstahl denied any knowledge of Mengele's whereabouts. The next day, the prosecutor brought in Mr. Fieberkorn, the other individual arrested and now held in a German prison for drug smuggling. He put the question to Fieberkorn whether he had ever heard of Josef Mengele. Fieberkorn claimed that he did not know of Josef Mengele's whereabouts, but that Riefenstahl had often spoken of Dr. Josef Mengele and knew Mengele well. Thus, the prosecutor established that there were two people now claiming that Riefenstahl had knowledge of Mengele, one being the Source in San Francisco, and the other being Mr. Fieberkorn. The only other matter that remained was to find out whether Riefenstahl was merely boasting to both of them, or whether or not the evidence is authentic.

Source maintains that at no time when Riefenstahl imparted the information to him, was it ever given in the form of boasting. He further points out that Riefenstahl never drank and was very mild-mannered, and never sought to impress people. The prosecutor informed me that he would further investigate in an effort to determine the truth in this matter. He also raised the question that Riefenstahl was known in Paraguay as Von Riefenstahl, but that in tracing his German ancestry, he did not appear to come from nobility, and thus was not entitled to the term "Von".

Mr. Chairman, the source of this information also believes Riefenstahl has a daughter in Paraguay and would never come forward with the truth with respect to Mengele for fear of what might happen to his daughter. He also has children in Germany, but his primary concern in this matter would be his daughter in Paraguay.

The prosecutor investigating this case, having already brought in Riefenstahl for questioning and mentioning the name Dr. Josef Mengele, has made it possible for Riefenstahl to pass the information back to Paraguay that he had been queried about Josef Mengele.

The prosecutor further states that if the Source's information is correct, Mengele would no longer be in the same location since he was sure to know that Riefenstahl was in prison and Mengele would therefore certainly move on.

Mr. Chairman, the only reason that this information is being made public today is the fact that we concur with the prosecutor's

assumption that if the information is correct, Mengele would no longer be in that place. This information, if true, would totally discredit the government of Paraguay in its claims that Mengele had left Paraguay well before the 1979 declaration of the Paraguayan Supreme Court revoking his citizenship because he had been long out of the country, and would further refocus on President Stroessner's responsibility in connection with Mengele's continued freedom.

Clearly, the time has come for the United States and West Germany, along with the international community to bring immediate and effective pressure on Paraguay to finally arrest the "Angel of Death", and turn him over for trial.

Senator SPECTER. I will call our last witness, Mr. Allan Ryan, who, in 1980, was named Director of the Justice Department's then newly created Office of Special Investigations, responsible for the investigation and prosecution of Nazi war criminals in the United States.

Mr. Ryan is the author of "Quiet Neighbors: Prosecuting Nazi War Criminals in America," published in November of last year, has a very distinguished academic record, and served as law clerk for Justice White on the Supreme Court in 1970 to 1971.

Mr. Ryan, we have very little time at the moment. I think it is highly likely that we will have another hearing, but we would like to hear from you, and there are a couple of questions specifically which I would like to ask you.

If you care to make a few opening comments, we would be pleased to hear you.

## STATEMENT OF ALLAN A. RYAN, JR., ESQ., WASHINGTON, DC

Mr. RYAN. I appreciate the time problem, Mr. Chairman, and, with your permission, I will summarize what I had put forth in my prepared statement.

Senator SPECTER. I think we will have another hearing, and at that time we will have an opportunity to hear you at length.

Mr. RYAN. I think the point that has to be made here, and the evidence and the opinions that have come forth this morning, is that the case of Josef Mengele cannot be examined in a vacuum, I think, particularly in talking about the efforts and the attitudes in the United States. The fact that he is at large today should not come as a great surprise to people who are familiar with the attitude of this country and the world toward Nazi war criminals. The fact is that throughout the 1950's and the 1960's, well into the 1970's, certainly in this country, there was a great deal of apathy about the fact that Nazi war criminals were at large. Congress showed very little interest, the Executive showed very little interest, and the press showed very little interest.

It was only within the last 8 or 9 years that attention has been focused on this problem and that the Justice Department, at the urging of Congress, began to do something about it in 1979.

I have made the estimate in my book, "Quiet Neighbors," that the number of Nazi war criminals that came here after the war was on the order of 10,000. And it was done through laws that made it very easy for that to happen.

So I think as we look at the question of Mengele, we have to do it with those attitudes in mind.

I think there are a number of points to be made about this present investigation that is being conducted by the Justice Department.

First of all, it is being supervised by Neal Sher who was my deputy. His staff is, in large part, the staff that was my staff when I was there. Knowing them as I do, I have not the slightest doubt in my mind that it will be a thorough and professional investigation.

I understand that the Justice Department was invited to send a representative here this morning to discuss this case before the subcommittee, and that they declined to do so. I have to say, Mr. Chairman, that I support that position; that was, in fact, my position 2 years ago when the Attorney General directed that I investigate the matter of Klaus Barbie. Whatever this subcommittee may do in fulfillment of its responsibilities, the Justice Department has responsibilities as well, and one of those, I believe, is to conduct the investigation fully and fairly and out of the glare of publicity, provided, of course, that when the investigation is completed that the Justice Department will provide to this subcommittee and to the Congress and to the public a full account of its findings, as indeed we did in the Barbie case.

And I assume that that will be done here.

I should emphasize, as well, that I am appearing as a private citizen, and do not represent the Justice Department this morning in any way.

Another point I think that has not been made this morning, but that needs to be made, is this: I see no reason why the investigation that is now being conducted into Josef Mengele and his whereabouts should be the sole responsibility of the United States. If indeed there is a need for investigation into the postwar movement of Mengele—and there is—the historical record, I think, would be disserved if the investigation does not extend to the actions of all allied governments after the war and not simply the United States.

We don't know at this point if he was in the custody of some other force in addition to the United States; in fact, the evidence that he was in the custody of the U.S. Army is just beginning to be developed, and I think it can be fairly characterized as fragmentary. The integrity of Mr. Gorby and the other people who have come forward I don't question for a minute, but it's the beginning of the inquiry and not the end, and I think that the inquiry should extend to the involvement of other governments as well.

Senator SPECTER. When you say "fragmentary," are you suggesting that the evidence is unsubstantial?

Mr. RYAN. I am not suggesting it is unsubstantial, Mr. Chairman—and I don't for a second question the credibility or the integrity of the witnesses who have come forward; I am saying it is the beginning of the investigation. I am not sure that I would take it as

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absolutely established that it was the case—I certainly will be following the evidence with interest as it develops.

Senator SPECTER. Well, absolutely established it is not, but fragmentary, in my judgment, it is not either. I think it is substantial.

Mr. RYAN. Well, my point, Mr. Chairman, is that in addition to looking into the U.S.' role at that particular point, I think the role of other governments should also be looked at so that we have a full record.

Senator SPECTER. I quite agree. Our good fortune or our luck in asking them to come forward might not be appreciably better than asking the Department of Justice to come forward.

Mr. RYAN. Well, that may be. It is also true that a warrant for Mengele's arrest and extradition to the Federal Republic of Germany has been outstanding for some time. I trust that the FRG will pledge its utmost cooperation in the search for Mengele and that it will contribute substantially to the resources that will be necessary to succeed in that. Indeed, I would expect that every nation in the world, and particularly in Europe and South America, would stand ready to work with the United States in what has to be an exercise in international cooperation.

I think that if the desire to apprehend Mengele is genuine—and I think it is—there has to be cooperation from London, from Moscow, from Bonn, from Asuncion, from Buenos Aires, from any other government that might have——

Senator SPECTER. I quite agree, Mr. Ryan, and this subcommittee intends to communicate with all of those governments, and especially Paraguay, at the conclusion of this hearing in pursuit of that kind of cooperation.

Time is very short, we are really way over time, but let me just ask you one question which really turns on the report you made in the Barbie case. The essence of it is in terms of what motivation the U.S. Army or the U.S. Government might have had not to retain Mengele in custody if in fact he was in custody, and in your writings on the Barbie case you make the point that there would be no justification for using a Nazi war criminal as a source of intelligence information. You make the point in your writings about Barbie that there was evidence that the U.S. Government did not know at one point——

Mr. RYAN. At one point.

Senator SPECTER [continuing]. That Barbie was in fact a Nazi war criminal. But given evidence as to Mengele's being a Nazi war criminal, would there be any justification whatsoever, in your judgment, for the Army not to prosecute him and bring him to justice, but to use any intelligence information that he might have as a bargaining point not to pursue him and prosecute him?

Mr. RYAN. No, sir, there would be no justification whatsoever.

Senator SPECTER. I think that's an important point to make today.

Mr. RYAN. I think it is, Mr. Chairman. The point also has to be kept in mind that, unlike Klaus Barbie, who was after all trained in counterintelligence, I cannot imagine what possible skills or information a butcher in a death camp might have possessed that would have been of any use whatsoever to American intelligence after the war.

Senator SPECTER. So as of this moment you can see no justification for not prosecuting Mengele had the Army had him in its custody?

Mr. RYAN. Absolutely not, no, sir.

Senator SPECTER. Senator Metzenbaum?

Senator METZENBAUM. Mr. Ryan, you have had a good deal of experience in this area. Are you satisfied from the information that is presently available that Mengele is still living?

Mr. RYAN. Yes, sir, I have no reason to think that he is not, although I am not actually investigating him myself. I think we have to assume that he is alive, yes, sir.

Senator METZENBAUM. Knowing what information is available, as well as various other kind of data, based upon your experience, are you satisfied that if the resources of the U.S. Government and other governments are promptly put together that Mengele can be apprehended within a reasonable period of time?

Mr. RYAN. Well, I have to believe that is so, Senator, but I think the only honest answer is: We don't know. We don't know if the investigation will succeed, we don't know if he will be captured. But I think we have to proceed on the assumption that he will be, otherwise there is no point to this.

So, being somewhat of an optimist, I would say yes, let us make the effort, let us assume that it will succeed, and approach it on that basis. But only time will tell.

Senator METZENBAUM. I guess my question really relates to the fact that you have been in the investigating field—it's not my arena—my question is do you feel there is a reasonable probability that this man can be apprehended, or is it possible for people such as Mengele to go sufficiently undercover that the possibilities of success are remote?

Mr. RYAN. Well, the only honest way to answer that question, Senator—and I am not trying to evade it—I am just saying there are two ways to look at that. Yes, I think the chances of success are good enough that we should make the effort.

But could he evade those efforts and could he stay hidden for the rest of his life? Certainly he could. There are fugitives in this country, not only Nazi war criminals, but bank robbers and kidnappers, who have stayed at large despite the efforts of the Federal authorities to track them down.

I think the only answer at this point is: Let us make the effort, particularly with the cooperation of other countries. I want to emphasize that whatever resources the U.S. Government may have, and they are considerable, I do not believe that the effort will succeed without the full-fledged cooperation not only of the governments of Paraguay and Argentina, where Mengele has also lived, but the efforts of other governments, even if it is only sharing of information.

That I think is absolutely essential to this, because the United States, although I think it should undertake this effort, needs the cooperation of other governments. It needs their information, it needs their resources.

Senator METZENBAUM. When you were head of the Office of Special Investigations, did you find that that kind of cooperation was usually forthcoming from other governments?

Mr. RYAN. Yes, sir, I did.
Senator METZENBAUM. Thank you, Mr. Chairman.
[The prepared statement of Mr. Ryan follows:]

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## Prepared Statement of Allan A. Ryan, Jr.

Mr. Chairman and Members of the Subcommittee:

I am pleased to honor your request that I appear today to assist you in defining the issues surrounding the efforts to locate Josef Mengele, the "Angel of Death" at Auschwitz.

From 1980 until 1983 I was the Director of the Office of Special Investigations, Criminal Division, U. S. Department of Justice. As such, I was responsible for the investigation and prosecution of Nazi war criminals in the United States.

I left the Department of Justice in September 1983 and I now practice law in Washington. I have written a book, Quiet Neighbors: Prosecuting Nazi War Criminals in America, which was published last November by Harcourt Brace Jovanovich. I emphasize that I appear before you as a private citizen and do not represent the Department of Justice.

The case of Josef Mengele cannot be examined in a vacuum. The fact that he is at large today should not surprise anyone who is familiar with the world's efforts -- and America's efforts -- to investigate Nazi crimes.

In the years after World War II, Nazi war criminals came to the United States in great numbers, encouraged by the Displaced Persons Act, a law passed by Congress that gave immigration preferences to the very nationalities whose degree of collaboration with the Nazis had been among the highest in Europe. The fervor of anti-Communism in this country was so great that we assumed anyone fleeing the

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Soviet Union or other Communist regimes in Europe must be anti-Communist and therefore a worthy immigrant to our shores.

Although Nazi criminals were technically barred by the Displaced Persons Act, lies were simple to concoct and difficult to detect, especially with the extremely lax screening provisions in the DP camps. A death camp guard from the Ukraine, for example, who said he had been a farmer during the war years could easily qualify for a visa. It is my estimate -- and it is a conservative estimate -- that the number of Nazi war criminals who entered this country in the post-war years was no less than 10,000.

Once in this country, they were literally home free. No one cared. Congress did nothing; the Executive did nothing; the press said nothing. The Nazis had been defeated militarily; Nazism as a political force was dead; the threat of the Soviet Union and its satellites was a real one, and few people thought to ask what had become of the hundreds of thousands of Nazi criminals who had carried out the Holocaust in Europe.

Congressional apathy, and public apathy, came to an end only in the late Seventies, when the Immigration subcommittee of the House Judiciary Committee began holding hearings on the whole matter under Congresswoman Elizabeth Holtzman and her predecessor Congressman Joshua Eilberg. These hearings culminated in the creation of the Office of Special Investigations in 1979. OSI was given the responsibility, in the Justice Department, of enforcing U.S. laws against Nazi war criminals in this country in order to seek their denaturalization and deportation through judicial proceedings.

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Since that time, OSI has filed nearly 36 cases against Nazi war criminals. During my tenure as Director of that Office, with a dedicated and professional staff, we went to trial in 21 cases and won 19 of them, and that success rate has been maintained since my departure. Several Nazi criminals have been deported from this country, and several more face imminent deportation as their seemingly-endless appeals now run out. These deported Nazis include:

-- Feodor Fedorenko, a guard at the Nazi death camp Treblinka;

-- Hans Lipschis, a guard at the Auschwitz death camp;

-- Valerian Trifa, a Romanian demagogue and propagandist who became head of the Romanian Orthodox Episcopate in this country;

-- Arthur Rudolph, production supervisor at the V-2 rocket works, a man who worked 20,000 slaves to death and who later became the head of the Saturn V program at NASA. As a legal matter, Rudolph left this country voluntarily, but he did so after being confronted with the evidence against him, and in lieu of going to trial;

-- John Avdzej, a collaborationist mayor in the occupied USSR who oversaw the annihilation of all Jews in the region;

-- Anatoly Hrusitzky, a Ukrainian policeman who took part in the murder of innocent Jews.

As we face the question of Josef Mengele, therefore, we do so with the realization that this country's concern over the issue of Nazi war criminals is a relatively recent one, and that the efforts of the Justice

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Department, no matter how vigorous, have faced and will continue to face extraordinary obstacles posed by the passage of decades between crime and investigation.

As the subcommittee knows, the Attorney General recently announced that the United States has launched an international effort to locate and apprehend Josef Mengele. The investigation is being conducted by my successor as Director of OSI, Neal Sher, and knowing Mr. Sher and his staff as I do, there is not the slightest doubt in my mind that the investigation will be thorough and professional. Whether it will also be successful -- that is, whether it will result in the arrest and extradition of Mengele -- no one can know.

It is my understanding that the Justice Department has declined this subcommittee's invitation to appear today and discuss the investigation. I support that position. Indeed, it is the same position I myself took when I was appointed by the Attorney General two years ago to investigate intelligence ties between the U. S. government and Klaus Barbie, the Gestapo "Butcher of Lyon." Investigations of this nature cannot be conducted in public. When the investigation is completed, I trust that the Justice Department will provide to the Congress and the public a full account of its findings, as it did at the conclusion of the Barbie investigation in August 1983. Until that time, it must be allowed to proceed without the glare of publicity.

There are, I believe, three questions that are of primary importance to the United States as it begins this investigation.

First, did Josef Mengele ever have any connection with the U. S. government? I am highly skeptical that the evidence, when it is gathered, will show any such relationship. Unlike Klaus Barbie, whose Gestapo duties included counter-intelligence, Josef Mengele spent the war as a torturer in a death camp and, even setting aside the moral question, I am at a loss to discern what skills or information he might have had that would have been of any use whatever to American intelligence after the war.

Second, did the United States have Mengele in custody after the war and, if so, how did he leave our custody? Did he escape or was he released? If released, did U. S. officials know his background and if so why did they release him?

The information that has been developed on this question to date is very fragmentary. It consists of a 1947 report by an Army CIC officer who was passing along information he received from an informant who is otherwise unidentified, and a recent report by a former soldier who says that in 1945 he saw a prisoner he was told was Mengele in a U. S. military camp. I am not questioning the integrity of either of these men when I say that far more definitive evidence will be needed if any sound conclusions are to be reached.

On this point, I see no reason why the investigation must be limited to the knowledge or actions of the United States. Indeed, if there is a need for investigation into the post-war movement of Mengele -- and there is -- the historical record would be disserved if that investigation does not extend to the actions of all Allied governments after the war.

Third, and most important, where is Josef Mengele

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today? Obviously the primary objective of this investigation should be to locate and apprehend Mengele and turn him over, through the legal process, to a country that is prepared to place him on trial and, upon conviction, punish him.

A warrant for Mengele's arrest and extradition to the Federal Republic of Germany has been outstanding for some time. I trust the FRG will pledge its utmost cooperation in the search for Mengele and that it will contribute substantially to the resources that will be necessary to succeed.

Indeed, I would expect that every nation in the world, and particularly in Europe and South America, would stand ready to work together with the United States in what must truly be an exercise in international cooperation. The Attorney General announced this investigation in Washington in the hope that, however late the date, justice might still be done in this notorious case. I trust that that hope is shared in Moscow, Bonn, London, Asuncion, Buenos Aires, and beyond, and that it will be made tangible through the sharing of information and resources.

Let me conclude my prepared statement with a brief description of the actions of OSI regarding Josef Mengele during my tenure, that is from January 1980 to September 1983. The mandate of OSI, as I have said, was to investigate and prosecute Nazi war criminals in America -- an important and difficult responsibility. I am aware of no evidence that Mengele has ever been in the United States.

Nonetheless, it was my policy that no information or allegation we received or might develop concerning Josef

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Mengele was to be disregarded. Every suggestion, regardless of its source, that Mengele might be, or might have been, in the United States, was scrutinized. I sent investigators to Texas, California, New York and elsewhere at various times to pursue such leads. None of these leads ever produced evidence of Mengele's presence here.

Shortly before my appointment, reports were received that Mengele might be arriving in Miami on a flight from South America. The flight was staked out with federal agents, but the report proved to be false.

The nature of OSI's work was such that we received a great deal of information, rumors and speculation about Nazi criminals in America. As a former prosecutor and counsel to the Warren Commission, Mr. Chairman, you are surely familiar with the fact that every prosecutor or investigator must assess the reliability of information before deciding whether or how to act on it, and that was the general rule that OSI followed.

But for Mengele we made an exception. My attitude was very simple: God forbid Josef Mengele might be in the United States and we might be ignorant of it and lose the opportunity to apprehend him.

Now that the Attorney General has directed OSI to expand its search world-wide, I join with this subcommittee and the American people and decent peoples everywhere in the fervent hope that the investigation will succeed.

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Senator SPECTER. Thank you, Mr. Ryan. Again, I express my regret that we can't spend more time, because you have a great deal to add, but in the event of another hearing, which I think we shall have, we shall be in a position to hear from you further.

The subcommittee thanks all those in attendance, especially Mr. Berkowitz and Mr. Michel for their very impressive testimony.

That concludes our hearing.

[The subcommittee adjourned at 12:43 p.m.]

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# SEARCHING FOR DR. JOSEF MENGELE

TUESDAY, MARCH 19, 1985

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 226, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Present: Senators Simon, D'Amato, McConnell, and Metzenbaum. Metzenbaum.

Staff present: Neal Manne, chief counsel, subcommittee; Michael Gale, legislative assistant (Senator Specter); Scott Wallace, counsel, subcommittee; Tracy McGee, chief clerk, subcommittee; Michael Wooten, counsel, full committee; and Steve Ross, counsel (Senator Metzenbaum).

## OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen.

This hearing of the Juvenile Justice Subcommittee of the Committee on the Judiciary will now begin.

This is the second in a series of hearings by this subcommittee on the issues relating to the search for Josef Mengele. We had our first hearing 1 month ago today, on February 19, and had significant testimony on leads concerning the whereabouts of Dr. Mengele.

Since that time, Senator D'Amato, my distinguished colleague from New York, and I had occasion to write to the Secretary of State, asking for State Department cooperation with other nations, including Paraguay, in an effort to locate Dr. Mengele. And Senator D'Amato and I had an opportunity to pursue this matter with Secretary of State Shultz in the hearings of the Foreign Operations Subcommittee, and Secretary Shultz assured us of his full cooperation.

Following the hearing which this subcommittee had on February 19, the Department of the Army, later that afternoon, announced a full-scale investigation in addition to the inquiries being made by the U.S. Department of Justice.

It is our sense that if there is sufficient attention focused on this important matter, the glare of world public attention, that the chances are excellent that Josef Mengele will be found and brought to justice, assuming that he is alive, and we believe that he is, in

fact, alive, because his death would have been a matter of significant importance and notoriety, and would have received public attention.

We are under some time constraints today because of the pendency of the MX vote this afternoon, and a great many appointments have been scheduled since this hearing was set, which require the attention of both Senator D'Amato and myself and others on this subcommittee who may participate, but we have a very distinguished list of witnesses today, including the Honorable James J. Florio, Congressman from the State of New Jersey; Assistant Attorney General Stephen S. Trott, head of the Criminal Division; Mr. Gerald Posner, Esquire, of New York, who has done substantial work on this matter; and Rabbi Morton M. Rosenthal, director of Latin American Affairs Department at B'nai B'rith; and Elliot Welles, director of the Task Force on Nazi War Criminals, Anti-Defamation League of B'nai B'rith, New York.

At this time I would yield for a statement from my colleague and friend, Senator D'Amato, who has shown such great leadership on this important subject in litigation activities, in Senate hearings, and with his customary tenacious pursuit on matters of great public importance.

Senator D'Amato.

## STATEMENT OF HON. ALFONSE M. D'AMATO, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator D'AMATO. Mr. Chairman, I am glad to be here to join with the subcommittee, particularly as I am not a member of the subcommittee.

I thank the chairman for his courtesy in allowing me to participate. I believe that this is an important responsibility of the U.S. Senate, in terms of its oversight, and I am also, Mr. Chairman, very heartened by what I perceive to be a very real commitment in terms of pursuing Mengele, in terms of putting together the puzzle, so to speak, of where he was, and what his activities were about.

It is not necessary for us to inquire right now into the various investigative leads that the Department of Justice is following. Mengele and his supporters read the press as well, so it does not necessarily help us in achieving the ultimate goal, which is capturing Mengele, if we discuss in public all of those matters relating to the current investigation.

However, there are certain matters which can and should be discussed. I think it is important that the public know that this is a meaningful investigation, one that involves all of the resources of our Government, both domestically and internationally, that there is a coordinated effort, that this is not merely lip service, and this is rectifying something that should have been done a long time ago.

Therefore, Mr. Chairman, I am delighted that we have this opportunity to hear from Mr. Trott and others with respect to the manner in which the investigation will be conducted, and that there is a total commitment where there may not have been some time ago.

The Army, CIA, other agencies of this Government, are fully committed to this investigation. And so I am pleased to be here, to

have the opportunity to listen to the witnesses and to ask some questions with regard to this important matter.

Senator SPECTER. Thank you very much, Senator D'Amato.

I would like to turn now to Senator Simon.

## OPENING STATEMENT OF HON. PAUL SIMON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator SIMON. Thank you, Mr. Chairman.

I simply want to join in commending our witnesses for their efforts. What we have seen, what we have been reading is almost impossible to believe, but I think it is important to remind ourselves of where humanity can go when constraints are not there, and it is important to have justice as quickly as possible.

We are beyond the point where justice is swift in this case, but whatever justice can be achieved, whatever we can do to assist the course of justice, we have to do, and I am pleased you are having these hearings, Mr. Chairman.

Senator SPECTER. Thank you, Senator Simon.

I would like to turn now to Congressman Florio.

We welcome you here, Congressman Florio. We appreciate the leadership that you have shown on the House side, in the resolution which you have introduced, and we welcome you here, and look forward to your testimony.

## STATEMENT OF HON. JAMES J. FLORIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. FLORIO. Thank you very much, Mr. Chairman, and members of the committee.

In the interest of conserving the time of the committee, I would ask that my full statement be put in the record in its entirety, and I will summarize some of the points.

Senator SPECTER. Without objection, your full statement will be made a part of the record.

Mr. FLORIO. I appreciate that, Mr. Chairman, and I appreciate also the opportunity to testify in support of the efforts to investigate the whereabouts and activities of Dr. Josef Mengele.

The Holocaust was a tragedy that affected not only Jews, but it affected mankind and humanity. We are all disturbed by recent reports that have been coming forward with regard to the ineffectiveness of the efforts to locate and bring to justice this war criminal.

Dr. Mengele, known as the "Angel of Death" of the Auschwitz concentration camp, committed crimes too barbarous to even contemplate in this day and age. I will not go into the details, I have them in my remarks, and I am sure that the committee is fully aware of them.

Many of the survivors of this individual's cruelties are living today with their memories of Hell and horror. We owe it to the victims of the Holocaust to investigate every credible lead to apprehend this individual. We seek justice, not vengeance.

I have introduced House Concurrent Resolution 82 this year, and it has the support of 37 of my colleagues, in a bipartisan way. The resolution puts the Congress on record in supporting efforts to investigate this individual and his activities. It is vital that we send a

signal to the international community that we must never forget the horrors of the Holocaust, and that we are responsible to see that this final chapter is finally closed in terms of the war criminal who is perhaps most notorious, and who is apparently still at large.

My resolution urges that an international task force be established with the help of the West Germans and the Israelis to supplement the efforts of the Office of Special Investigations. This would enable a concentrated effort to find Mengele and bring him to justice, to be put forward.

Furthermore, the resolution that I have introduced calls on all the appropriate U.S. agencies to cooperate and to share their files. Reports have said that the U.S. Army twice had Mengele in custody, only to release him, because the Army did not have the information that our State Department possessed.

If this is the case, it is certainly inexcusable.

Lastly, my resolution urges that the United States officially request the countries that may have hosted, or have information about Mengele, Paraguay, Brazil, Argentina, Bolivia, and Uruguay, to launch internal investigations, and share their archives with the United States.

Parenthetically, I have directed a letter to the President, who at this time is having the highest level consultations with the President of Argentina, asking that this subject be incorporated into those discussions, and that the President of Argentina be asked to pledge his full cooperation in making available to the international community any information that that Government may have with regard to this problem.

The investigation recently launched by the OSI, and the efforts such as are represented by this hearing certainly are to be commended. By prosecuting Josef Mengele, and recalling this tragedy, we can hope to ensure that such a calamity will never again be repeated in the history of mankind.

Mr. Chairman, I would just like to commend you for the leadership position you have taken on this side, in not only calling these hearings, but in pursuing this matter over the last number of years, and particularly with the intensity of the pursuit in the recent past.

So I am pleased to be here. I look forward to cooperating with you on this matter, in the same way that we have cooperated in so many other matters over the last number of years, and I thank you very much for your attention.

[The prepared statement of Representative Florio follows:]

## PREPARED STATEMENT OF HON. JAMES J. FLORIO

Mr. Chairman, I would like to thank you for holding this hearing today and for giving me the opportunity to testify in support of efforts to investigate the whereabouts and activities of Dr. Josef Mengele.

The Holocaust was one of the most tragic chapters in the history of mankind. The senseless execution of more than ten million innocent people by the Nazis during World War II was a tragedy that affected not only the Jewish people, but all of humanity. As a Member of Congress concerned about the horrors of the Holocaust, I am disturbed by recent reports that Dr. Josef Mengele, the most notorious Nazi war criminal still at large, has been living in freedom for forty years.

Dr. Mengele, known as the "Angel of Death" of the Auschwitz concentration camp, committed heinous crimes against humanity in an effort to create Hitler's "master Aryan race." This evil fiend, whom Anne Frank called the "Angel of Extermination," determined with a flick of the wrist who would die outright in the gas chambers and who would be "spared" to die a slow death of torment and mutilation in his laboratory. He would use the ones he "spared" as human guinea pigs. Often, they were twins or young children. If one of the twins died during the experiment, the other would then be killed since Mengele would have no further use for the child.

Mengele would inject chemicals in the brown eyes of his victims to change their color to blue. He tossed live babies in ovens and wired victims with electrodes to test their threshold for electric shock. He once promised a special milk porridge for expectant mothers who were gassed once they had gathered together. He was known to have sent a barracks of 700 Gypsies to the gas chambers simply because of a report that their barracks was infected by lice.

Many of the survivors of Mengele's cruelties are living today with their memories of Hell and horror. We owe it to the victims of the Holocaust to investigate every credible lead on Mengele. We do not seek vengeance; we seek justice.

For this reason, I introduced H. Con. Res. 82 on March 7, 1985, with the support of 37 of my colleagues. My resolution puts the Congress on record for supporting efforts to investigate Dr. Mengele and his activities. It is vital that we send a signal to the international community that we must never forget the horrors of the Holocaust nor those responsible for them. We must forever fix the horror in the minds of men, remind them of this evil and, hopefully, prevent any repeat.

My resolution urges that an international task force be established with the help of the West Germans and the Israelis to supplement the efforts of our Office of Special Investigations (OSI). This would enable a concentrated effort to find Mengele and bring him to justice. Furthermore, H. Con. Res. 82 calls on all the appropriate U.S. agencies to cooperate and share their files. Reports have said that the U.S. Army twice had Mengele in custody only to release him because the Army did not have the information our State Department possessed.

Lastly, my resolution urges that the United States officially request the governments of countries that may have hosted Mengele (Paraguay, Brazil, Argentina, Bolivia and Uruguay) to launch internal investigations and share their archives with the United States. The cooperation of these nations is vital to this effort.

The investigation recently launched by the OSI and efforts such as this hearing are to be commended. In the interest of justice and human rights, we must continue our efforts with renewed fervor and leave no stone unturned. We owe it to the victims of the Holocaust and to those that still endure its horrors. By prosecuting Josef Mengele and by recalling this tragedy, we can hope to ensure that such a calamity will never again be repeated in the history of mankind. Only when we begin to study, to analyze, to question and to remember, can we honestly say, "Never Again!"

Senator SPECTER. Thank you very much, Congressman Florio.

Senator McConnell has joined us, and we would be very pleased to turn to you at this point, Senator, for an opening statement.

## OPENING STATEMENT OF HON. MITCH McCONNELL, A U.S. SENATOR FORM THE STATE OF KENTUCKY

Senator MCCONNELL. Mr. Chairman, I have no statement, other than to say how pleased I am to be a part of this subcommittee, having worked on children's issues for a number of years, as you know, and I am certainly, like most Americans, terribly interested in the issue before us today, and I want to commend you for calling these hearings, and look forward to hearing what the witnesses have to say.

Senator SPECTER. Congressman Florio, two or three questions.

First, on the subject as to whether Mengele is still alive today, in my opening comments I referred briefly to my conclusion that he is alive, principally on the basis of the negative evidence, that there has been no report to the contrary, and that if Mengele had died, it would have been a matter of enormous international significance, which would likely to have been reported.

Given your experience in this and related fields, I would be interested in your opinions, speculations, perhaps even conjecture, as to whether Josef Mengele is, in fact, alive today.

Mr. FLORIO. I think your analysis is a valid one, and I think there is validity to pursuing it in that spirit. But I think there is also value in pursuing this matter, even if it were documented that he were not alive, because it is clear that there have been some foul ups administratively, and that, in fact, the evidence is that he was at some point in the custody of the U.S. Army officials.

I think just for the purpose of legislative oversight we should see how agencies have interacted in the past. We should learn from that experience, and attempt to make any connections that may be needed legislatively if, in fact, the record flushes itself out in such a way as to prove that the worst case scenario has, in fact, occurred.

But I am working from the same premise that you are, Senator Specter, that this individual is still alive, and that we, in fact, should make sure that he is brought to justice.

Senator SPECTER. Congressman Florio, one other question, and that is on the issue of legal procedures to take someone into custody where extradition is not possible.

There is precedent in the reports of the United States, a case going back, decided by the Supreme Court of the United States in 1886, where the State of Illinois pursued a man to Peru, took him into custody, some would contend through abduction or kidnapping, brought him back to the State of Illinois, tried him, convicted him. The case went to the U.S. Supreme Court, and in 1886 the Supreme Court of the United States held that there was satisfactory jurisdiction to prosecute in a criminal court, notwithstanding the means of obtaining custody over that individual.

In that case, Peru, after he was abducted, kidnaped, acceded to his having been taken from the country. This case differs slightly from the Eichmann case. In the case when Eichmann was taken

from Argentina, Argentina did not, either before or after the fact, give consent to his being taken from their country.

This issue, I think, has significance in a perceptive pursuit of Mengele, and it also has significance as we try to make plans for dealing with international terrorists. I have introduced legislation on the subject, on the proposition that where we deal with fugitives, whether they are terrorists or war criminals, that there is a case to be made for treatment in ordinary principles of criminal law, and that is to make an arrest, and to take jurisdiction, and to bring those individuals before a court having jurisdiction to try them, regardless of the necessity to use that force, with or without the consent of the government where they may be located, because on some occasions the government itself may be a party, either to the acts of terrorism, or acts of criminality, or to harboring those criminals.

I think this is a consideration and a doctrine which is worth substantial airing, and I mention it today because of what I consider its importance to be, perhaps in Mengele's case, depending on where he is found, and what the response would be of the resident jurisdiction, but also on the broader applications. I would be interested in your judgment, on the propriety of taking jurisdiction over such people by force, if necessary, and with or without the consent of the country or jurisdiction where that individual were to be located.

Mr. FLORIO. Certainly that is the least preferred way of approaching this matter. Certainly the desirable approach would be to have international cooperation, particularly in instances such as this, where the violation is just so obvious and blatant to all who have any minimum degree of the concept of humanity.

The only concern I would have about the suggestion that you were talking about is, of course, it is a double-edged sword, and to the degree that someone in some country regarded someone in this country as having violated their law, being a political opponent, establishing the precedent of not going through the traditional, at least at the first cut, going through the additional international sense of commodate, may very well be a cause for concern.

But I am convinced, in those special cases, and I am sure that your legislation is designed to deal with those special cases, that are extraordinary in impact, there may very well be at least some justification for initiating discussions and legislative debate because, of course, this will all have to be done in an international setting, and I think that is the first and foremost cut at the issue, that it should be in an international setting, on a cooperative basis.

Senator SPECTER. I would certainly agree, if extradition can be achieved, and cooperation from the State where the individual is, or country where the individual is found, and I look beyond that, to an antagonistic setting, or a nonconsential setting.

Mr. FLORIO. Even before I would be willing to go to the suggestion you are making, even if extradition were not available, this country has sufficient internatinal economic, diplomatic relations with so many countries, that I am convinced that there is sufficient leverage that might be able to be utilized to induce cooperation, after the first opportunity to invoke legal procedures might have not been yielding the benefits that you want.

Senator SPECTER. Thank you very much, Congressman Florio.

Senator D'Amato.

Senator D'AMATO. Thank you.

I am not going to ask my friend and colleague, Congressman Florio, any questions.

I am simply going to commend him for his action in sponsoring the concurrent resolution in the House, and for having gathered the support of 37 of your colleagues to date to give force and substance to the investigation, to let the administration know that we support their endeavors.

I think we can all decry the past inactivities. At long last it would appear that we are on the right road, and I commend you for being here today, for your statement, and also for your strong resolution in connection with pursuing Mengele.

Mr. FLORIO. Thank you.

Senator SPECTER. Senator Simon.

Senator SIMON. I have no questions. I am the only member who had the privilege of serving with Jim Florio. He is a very distinguished Member of the House.

I would add that I think your point is correct, that even if we had evidence that he is not alive, it is worth pursuing, not only for the reason of coordination that you mentioned, but also simply to remind ourselves what can happen.

If you are in a car, all you need is to know where you are, and have a map of where you are going. If you are a Nation, you also need to know where you have been, and we have to know where we have been, and how institutional depravity—and that is what we are talking about, not only one individual, but institutional depravity—can do to humanity.

So I commend you. I think what we are doing here is all to the good.

Senator SPECTER. Thank you very much, Senator Simon.

Senator McConnell.

Senator MCCONNELL. No questions.

Senator SPECTER. Congressman Florio, thank you very much.

Mr. FLORIO. Thank you very much, Mr. Chairman.

Senator SPECTER. We appreciate it.

I would like to call now Hon. Stephen S. Trott, distinguished Assistant Attorney General, who heads the Criminal Division.

Mr. Trott, we welcome you here, appreciate your joining us. We recognize the sensitivity of the pending action by the Department of Justice, so that we understand at the outset the constraints which you may be under, but to the extent that you can inform this subcommittee on this matter, we are grateful to you.

**STATEMENT OF STEPHEN S. TROTT, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE, WASHINGTON, DC**

Mr. TROTT. Mr. Chairman, members of the committee, thank you very much.

First, let me begin by thanking especially you, Senator Specter, and Senator D'Amato, for your continuing interest in this matter. You have participated very, very intelligently and very forcefully

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in energizing the efforts now out there to make sure we have accomplished the objectives that have been described before this committee.

On February 6 of this year, 1985, then Attorney General William French Smith directed the Criminal Division, of which I am the Assistant Attorney General, to conduct a thorough and complete investigation into matters involving Josef Mengele, the notorious "Angel of Death" at the Auschwitz concentration camp.

I might add that now Attorney General Edwin Meese has endorsed this investigation, and has indicated it will continue in full force and effect.

The scope of this inquiry directed originally by the Attorney General is intentionally broad and all encompassing. It is designed to allow us to determine what, if any, contacts this Government had with Mengele following the end of the war, whether he ever entered the United States, and if so, under what circumstances, how Mengele left Europe and made his way to South America, and finally, to locate him and bring him to justice.

Within the Criminal Division of the Department of Justice, the Office of Special Investigations is ideally suited to play a pivotal role in conducting much of this inquiry. This Department has a remarkable track record in identifying Nazi war criminals living in the United States, and taking legal action to strip them of citizenship, and deport them from this country, insuring that persons of that background do not enjoy the great privilege of living within the United States.

Moreover, OSI has developed a unique expertise when it comes to understanding events immediately following World War II, including escape routes utilized by Nazis fleeing from the Allies. A detailed listing of the accomplishments of the Office of Special Investigations during the last year is attached to my statement, which I have submitted to you, and I would request that the entire list of accomplishments be placed in the record, as an indication of the accomplishments of OSI, as evidence of its ability to continue in this mission on which it now finds itself.

Senator SPECTER. Without objection, the listing will be made a part of the record.

Mr. TROTT. To complement the Office of Special Investigations efforts, and to compensate for their lack of specialized investigative personnel to focus on ascertaining Mengele's current whereabouts, the Department of Justice has directed that the Marshals Service work with the Office of Special Investigations, and assume principal responsibility for that aspect of the inquiry designed to locate Mengele.

I might add that the U.S. Marshals Service is particularly well suited to do this. Without going into all the details, since 1980 the Marshals Service has really identified the location of fugitives as one of its very highest priorities. They have developed an expertise second to no one in the world at doing this, and as a matter of fact, in discrete initiatives that are called FIST's for fugitive intensive strike teams, in the last 3½ years have been successful inside the United States in locating and arresting 7,000 career criminal fugitives. This is a track record that nobody has ever established, and it causes me to believe that with the abilities that they have, and

these include not only inside the United States, but worldwide, that they are an appropriate agency to assume that pivotal role.

In connection with all aspects of this inquiry, both OSI and the Marshals Service have received, and will continue to receive, all necessary assistance from the Federal Bureau of Investigation, the intelligence community, the Department of Defense, the State Department, and any other relevant agency that it is necessary to consult with in the interests of this mission.

The Department of Justice also wishes to acknowledge gratefully the efforts of the Department of Defense, and particularly the Secretary of the Army, John O. Marsh, Jr., who has organized a large and capable task force to assist in the location of archival documents on Mengele.

Neal Sher, who heads the Office of Special Investigations, has told me, on a number of occasions, in the last 2 weeks, he could not be happier with the cooperation of the Army. They have detailed appropriate people, and are doing everything conceivable to assist in this mission.

As has been indicated by Senators, this, however, remains a bit of a ticklish business, in the sense we have a query in the field, and we would respectfully suggest and request permission from this committee that we not publicly go into any further details of the pending investigation, or its particular methodology. We strongly believe that the public disclosure of information, documents, potential witnesses and potential leads to be pursued could seriously impede our investigation. This suggestion, certainly, is not made out of a desire to keep anybody in the dark, but only because, like any other fugitive inquiry, a certain measure of confidentiality is necessary to preserve the effectiveness and the integrity of the investigation.

What do we want to accomplish? We want to find out what the role of the U.S. Government has been in this affair, No. 1, and No. 2, if possible, we wish to locate Dr. Mengele and bring him to justice.

That concludes my prepared remarks. Thank you very much. I would be delighted to attempt to answer any of your questions.

[Accomplishments of the Office of Special Investigations during 1984 follows:]

U.S. Department of Justice

Washington, D.C. 20530

1984 Highlights
Office of Special Investigations
Criminal Division

## I. EXPULSIONS FROM THE UNITED STATES

In 1984 five people were deported or otherwise permanently removed from the United States on account of their involvement in persecution during World War II:

(1) Trifa, Viorel: Culminating over nine years of intense litigation, Viorel Trifa was deported to Portugal in August, 1984. Trifa had been ordered deported in October 1982 after he conceded that his role in the infamous Iron Guard in Romania, and his concealment thereof from U.S. authorities, rendered him deportable. Fearing possible deportation to Israel (which had been reviewing the evidence) or Romania (which would have been eligible to receive him in October 1984), Trifa secured a visa to Portugal. It is my understanding that the Portugese have refused to grant Trifa permanent residence. While his fate remains uncertain, he will never be allowed to re-enter this country.

(2) Rudolph, Arthur: The case of Arthur Rudolph, who gained notoriety in this country because of his work on the Saturn V rocket project, received considerable media attention. Pursuant to an agreement entered into with OSI, Rudolph permanently departed the U.S. in March and formally renounced his U.S. citizenship in June. Rudolph conceded that he would have been subject to denaturalization and deportation because of his wartime service as the Operations Director of the Nazi's Mittelwerke underground rocket assembly site in the Harz mountains. The dreaded V-2 rockets, which bombed London, were built at Mittlewerke by slave laborers from the Dora concentration camp complex. The inmates worked under inhumane conditions; thousands died from overwork, malnutrition, disease, unsanitary conditions as well as physical abuse and murder by the Nazis.

As Operations Director, Rudolph was responsible for all phases of the production, and in the agreement he acknowledged that he could not contest his role in the utilization of the slave laborers and the conditions under which they were forced to work. It should be emphasized that through this agreement, we received all the relief (loss of citizenship and permanent removal from the U.S.) to which we would have been entitled had we gone through years of litigation. Rudolph is now in West Germany.

(3) Avdzej, John: Pursuant to an agreement similar to the one entered into with Rudolph, John Avdzej permanently departed the United States in February 1984 and renounced his citizenship in March. Avdzej had been a collaborationist Regional Mayor in Byelorussia during the war, a fact which he hid when he immigrated to the U.S. During his reign as mayor, all of the Jews and many Poles in his region were murdered.

Avdzej conceded that he could not dispute our allegations that he had participated in the persecution of Jews and Poles. Avdzej is in West Germany.

(4) Hrusitzky, Anatoly: In August 1983 OSI commenced denaturalization litigation against Hrusitzky, claiming that he had served as a Ukrainian policeman during the war and in that capacity had participated in the persecution and murder of Jews.

In August 1984, Hrusitzky returned to Venezuela (where he had lived for many years after the war) and formally renounced his U.S. citizenship. Hrusitzky is forever barred from entering this country. In this case as well, we secured all the relief provided by law.

(5) Fedorenko, Feodor: On December 21, 1984, Fedorenko was deported to the U.S.S.R., thus ending seven years of litigation. This case was decided by the U.S. Supreme Court in 1981 in a ruling that concentration camp guards, such as Fedorenko who served at Treblinka, were guilty of persecution and were therefore not eligible to immigrate to the U.S. Fedorenko was subsequently ordered deported by an immigration court; that order was affirmed on appeal by the Board of Immigration Appeals. Fedorenko then withdrew his appeal to the U.S. Court of Appeals, thereby finalizing the order of deportation. Eleventh hour efforts by Fedorenko's attorney were unsuccessful, as Supreme Court Justices Brennan and Stevens each denied applications to block deportation. Fedorenko thus became the first war criminal to be deported by the U.S. to the U.S.S.R.

## II. NEW FILINGS

In 1984 we instituted the following actions:

(1) Artukovic, Andrija: In February, OSI reinstituted deportation proceedings against Artukovic in an effort to effectuate the long-standing order of deportation. That case is still pending and is scheduled to be heard before an immigration judge early in 1985.

In November the case took a dramatic turn when the U.S. government arrested Artukovic pursuant to an extraditon request from the Yugoslavian government. Artukovic is being held in custody and his requests for bail have been rejected. The extradition hearing is scheduled for mid-January in Los Angeles.

### Members of the Lithuanian Schutzmannschaft

OSI has been investigating the activities of a notorious Lithuanian schutzmannschaft battalion, whose members allegedly were responsible for the murder of thousands of Jews and other "enemies of the Third Reich" in Byelorussia. In 1981 we filed a denaturalization action against Jurgis Juodis, who was an officer in that unit. In 1984, we brought charges against five other members of that battalion:

(1) Katin, Matthew: Denaturalization action filed in Massachusetts in November;

(2) Gudauskas, Vytautas: Denaturalization action filed in Massachusetts in June;

(3) Klimavicius, Jonas: Denaturalization action filed in Maine in May;

(4) Benkunskas, Henrikas: Deportation action filed in Chicago in March;

(5) Kisielaitis, Joseph: Deportation action filed in Boston in May.

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## III. ONGOING INVESTIGATIONS AND RESEARCH

As reflected in the filings against the five members of the Lithuanian punitive battalion, we have been pursuing several major investigations and research projects designed to uncover alleged Nazi persecutors in our midst. We have placed considerable emphasis on this effort, and the project has been pursued aggressively. Thus far, the results have been very encouraging, and we expect to file several new cases within the next few months.

## IV. DECISIONS IN ONGOING LITIGATION

Artishenko, Basil: In October, Artishenko entered into an agreement with OSI in which he agreed to the entry of an order revoking his citizenship on the grounds that he lied about his service in a collabrationist police force in Byelorussia.

Kairys, Liudas: On December 28, U.S. District Judge James Moran, sitting in Chicago, issued an opinion stripping Kairys of citizenship because of his service at the Treblinka slave labor camp. The case had been tried in July 1982. This decision is very significant because Kairy's attorneys centered their defense on allegations that the government's case was predicated upon false evidence from the U.S.S.R. Indeed, a signifcant portion of the pre-trial proceedings, as well as the trial itself, focused upon the defense contentions that our evidence was unreliable. Judge Moran squarely rejected those assertions and ruled that the wartime documents from the U.S.S.R. were authentic and admissible under U.S. law and procedure. In addition, he admitted into evidence and credited deposition testimony taken in Latvia.

Kowalchuk, Sergei: In July 1983, the U.S. District Court in Philadelphia stripped Kowalchuk of citizenship on account of his wartime service as a Ukrainian policeman. It had been alleged that in such capacity Kowalchuk had engaged in the persecution of Jewish civilians. In September a divided three judge panel of the U.S. Court of Appeals reversed the order of denaturalization. We immediately requested an en banc review by the full Court of Appeals. That request has been granted and the decision reversing the denaturalization has been vacated pending resolution by the full court. We are awaiting the scheduling of oral argument.

Koziy, Bogdan: Koziy had been stripped of U.S. citizenship in March 1982 after the District Court found that he had single handedly murdered a young Jewish girl and had participated in the murder of other Jews while serving as a Ukrainian policeman. On February 27, 1984, the U.S. Court of Appeals for the Eleventh Circuit affirmed that decision. A deportation action was filed, and we are hopeful for a trial date early in 1985.

Palciauskas, Kazys: In March 1983, the District Court in Florida stripped Palciauskas of citizenship, finding that he had lied about his tenure as Mayor of Kaunas, Lithuania, during the war. In that position he assisted in the persecution of Jews by ordering their internment in a ghetto, where they were forced to exist under inhumane conditions. Palciauskas ordered the Jews to wear the yellow Star of David and was responsible for the confiscation of their property.

In June 1984, the Court of Appeals for the Eleventh Circuit affirmed in all respects the denaturalization decision. We have since initiated deportation proceedings.

Theodorovich, George: In January 1984, the U.S. District Court for the District of Columbia revoked Theodorovich's citizenship after he failed to appear for his deposition as ordered by the Court. Prior to the commencement of the suit, Theodorovich admitted under oath that he had been a member of the Ukrainian Police in Lvov and had written and signed reports accounting for ammunition expended in actions against Jews. Theodorovich had originally claimed that these documents



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were "KGB forgeries"; later, after he and his lawyer reviewed the documentation, he acknowledged that the documents were indeed authentic.

A deportation trial is scheduled to commence in Baltimore in early March.

Demjanjuk, John: In May 1984, the Immigration Court in Cleveland ordered Demjanjuk deported to the Soviet Union: he has appealed to the Board of Immigration Appeals.

Demjanjuk had previously been stripped of U.S. citizenship after Chief Judge Battisti found that he had been a brutal guard at the Treblinka death camp in Poland; that decision was affirmed by the Court of Appeals and was left undisturbed by the U.S. Supreme Court.

On a separate track, we are proceeding with the request to extradite Demjanjuk to Israel, where he has been charged with murder. We expect a hearing to be held early in 1985.

Lehmann, Alexander: On February 27, 1984, the Immigration Court in Cleveland entered a final order of deportation against Lehmann, who had been charged with participating in the persecution of Jews while serving as a Ukrainian policeman. This order was entered after Lehmann signed an agreement with OSI in which he conceded deportability because of his wartime activities. Lehmann filed an application to postpone deportation because of ill health. After an independent medical examination, the I.N.S. District Director agreed to postpone deportation. We are monitoring Lehmann's health and a further examination will be scheduled soon.

Linnas, Karl: In August, the Board of Immigration Appeals upheld the order of deportation entered against Linnas, who had been stripped of U.S. citizenship in 1981 because of his persecution of Jews while he served as the head of a concentration camp in Tartu, Estonia. The BIA remanded the case to the Immigration Judge with instructions to consider the propriety of deporting Linnas to the U.S.S.R. in light of the U.S. government's refusal to recognize the Soviet incorporation of the three Baltic states. This issue was discussed at the highest levels at the State Department, which has the responsibility for determining and interpreting Baltic policy. State has agreed with OSI's position and has rendered an opinion that Linnas can, in fact, be deported to the Soviet Union under the provision of the immigration law which permits deportation to any country willing to accept the deportee; a formal pleading to that effect has been filed with the Immigration Court in New York City.

This was a significant victory. To have taken a contrary positon would have been tantamount to this government giving safe haven to one who had been adjudged by our courts to have been actively involved in persecution. Clearly, it was never the intent of our Baltic policy to protect Nazi persecutors.

Kulle, Rheinhold: In November 1984, an Immigration Judge in Chicago ordered Kulle deported to West Germany. Kulle had served as guard leader and SS instructor with the S.S. Death's Head Battalion at the Gross Rosen concentration camp. Kulle has filed an appeal with the BIA.

Maikovskis, Boleslavs: In August 1984, the BIA reversed an earlier ruling by Immigration Judge Francis Lyons in New York and ordered Maikovskis deported. During the war Maikovskis served as Chief of Police in Rezekne, Latvia. The BIA found that he participated in the destruction of the town of Audrini and the murder of its inhabitants.

Schellong, Heinrich: In July 1984, Schellong was ordered deported to West Germany after the Immigration Court in Chicago found that he had engaged in the persecution of innocent civilians while serving with the S.S. Death's Head Division at the Sachsenburg and Dachau concentration camps. In 1982 Schellong was denaturalized by the U.S. District Court in Chicago; in 1983 the U.S. Court of Appeals affirmed that decision.

Senator SPECTER. Thank you very much, Mr. Trott.

We appreciate the response which you have made. We appreciate the investigation of the Department of the Army, and within the outlines that you have made, you have announced an investigation which is very sweeping, not only to determine the whereabouts of Mengele today, with a view of bringing him to justice, but also with a view to reviewing the actions of the U.S. Government, to pick up the thread of 1945, when testimony has been given that it was believed that Mengele was in Army custody, the 1947 letter, which was written in the pursuit of Mengele, the indicators in the 1970's, as late as 1979, that certain information came to agencies of the U.S. Government.

So that I conclude from your opening statement, and from your nod at the moment, that the conduct of the Government will be pursued intensively, as well as the effort to locate Mengele today.

Mr. TROTT. That is correct, and we have had a pledge from the Army to participate fully in this effort. We will hide nothing in this matter.

Senator SPECTER. It is critical that not only will Mengele be brought to justice, if he is, in fact, alive, and can be found, but that any errors, or lack of diligence be publicly demonstrated, so that we can do everything possible to prevent any recurrence in the future.

Mr. TROTT. A very noted historian, as we all well know, said that those who are not aware of the mistakes of the past are condemned to repeat them in the future. This is a very important part of this exercise, and we commend that approach.

Senator SPECTER. Given the track record of the United States, there is a great deal not to be repeated in the future.

Let me ask one further question, and that is on the legal issue that I had explored very briefly with Gongressman Florio, with reference to the Supreme Court case, in *Kerr* v. *Illinois*, a decision which has been followed repeatedly by the Federal courts, and as recently as 1950, reaffirmed by the Supreme Court of the United States in an opinion written by Justice Hugo Black—a noted civil libertarian—and I would ask for your thinking on the propriety, if all else fails, as to efforts to apprehend a man like Mengele, or a terrorist who is guilty of violating the laws of the United States, the propriety of forceful action to take someone into custody.

I am reminded of a case we had in Philadelphia, where we had an entire building which harbored people who were under arrest, a MOVE activity, where finally, after months and months and months the whole building was decimated by bulldozers, to accomplish custody of the people, considering it was considerable force, with the least force necessary.

You have had a lot of experience as a prosecuting attorney before coming to Washington. Would the necessity, when people take hostages, or when they hole up somewhere, or barricade themselves, to take kinds of force necessary to take custody of a person. It is a more genteel term to call it an arrest, as opposed to an abduction, or a kidnaping, but if worst came to worst, what is your thought about the doctrine set forth in the *Kerr* case?

Mr. TROTT. Well, Senator, as you well know, that doctrine is a doctrine of long standing in the United States.

Effectively, if I remember it correctly, what it says is that the legality or the illegality of the manner in which a person is brought into custody is irrelevant, insofar as the question of jurisdiction of the court to proceed is concerned.

Every one of those cases, though, does express some concern about methods, and points out that they are not necessarily embracing the methods that were used to bring people into the court, simply stating that once a person is there, if jurisdiction otherwise attaches, they are not going into secondary matters.

Another way of expressing it is the exclusionary rule has never been used as a per se way of depriving a court of jurisdiction, if otherwise it has jurisdiction, only as a method to cut down the use of evidence.

I have been confronted with this situation many times, and I have advised many police officers, in the 20 years I have been in law enforcement, that even though jurisdiction will still attach, that it remains not a good idea to violate the rule of law in taking people into custody.

All I can tell you, is in the abstract, whatever method that we do pursue must remain, and will remain, within the rule of law. I think it would be a mistake for us, in the pursuit of a legitimate, and a very worthwhile objective, to become so involved that we forget that very important principle and I know you are certainly not suggesting that.

The rule of law, however, is very broad, and as you point out, when you are confronted with emergency situations, frequently you can take emergency measures. So as I say, with that in mind as a general guideline, what we intend to do is to be as extraordinarily aggressive as we can in this area, but always remain within the rule of law.

It would be a major mistake for the U.S. Government, as I said, to abandon the rule of law in a situation like this.

However, what that rule of law is will depend on what we are confronted with when it comes up.

Senator SPECTER. Well, Mr. Trott, I totally concur in your categorization of following the rule of law. As long as we stay within the confines of what the U.S. Supreme Court has said, and a man like Justice Hugo Black reaffirmed, I think we are on safe ground, but in dealing with these very difficult issues, and these horrendous criminals, these international criminals, like Mengele, or the terrorists, I think these are alternatives that we have to inquire about, and that we have to investigate.

If we can find means short of them, fine, but if it is necessary to be very tough to deal with these tough international criminals, then that is a line of thought that I for one would like to see pursued.

Mr. TROTT. Senator, I endorse that line of thought, because it has become absolutely clear to me in the last 5 years that our concepts of jurisdiction, and our ideas of constitutional due process are abused by international criminals in order to find sanctuary in places where we have a difficult time getting hold of them.

Most of the most pernicious criminals we are confronted with find their santuaries in other countries of the world, and they

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thumb their noses at us. It has become an obvious tool of the trade to simply buy an airplane ticket and get away from us.

So you are right, we have to continue to look for new ways to pursue and to bring to justice those criminals that impact on the quality of our lives in many different ways, and bring them to justice.

Senator SPECTER. Senator McConnell, I would like to yield the gavel to you at this point. Since I have been here the calls have not stopped coming. I have not been so popular on any MX day in my short tenure.

I am going to absent myself for a short time, and if you would preside, I would appreciate it.

Senator MCCONNELL. I would be happy to do that.

Senator SPECTER. Thank you.

Senator MCCONNELL [presiding]. Senator D'Amato, any questions?

Senator D'AMATO. Thank you, Mr. Chairman.

Basically, just two questions, Mr. Trott.

Let me again reiterate, after having had the opportunity of meeting with you and those who you are undertaking this investigation with, on a day-to-day basis, and those who have the overall responsibility, that we are getting the kind of effort necessary to pursue Mengele, I am convinced that there is a very determined effort on the part of the Justice Department and others to pursue every lead in terms of the historical perspective, as you have outlined, in terms of whether he was in American custody, what was the picture in Europe, whether he entered this country, and what contacts, if any, we had with him directly or indirectly.

All of that becomes most important, particularly if we are going to put together the picture that will ultimately lead to his capture, because I do believe that Mengele is still alive.

Having said that, do you believe that this effort, and that our agencies and various departments here within the United States have been sufficiently sensitized so that your requests for cooperation are receiving the highest priority, that this is a high priority item with them, or is this just a back shelf kind of situation?

What is your feeling?

Mr. TROTT. It has been my personal experience, and the experience of the people you just referred to, that we are getting cooperation at the very highest levels. There is no indication, whatsoever, that anybody is holding back. The Army is on board. We had numerous meetings with them. As I indicated before, they are fully complying with our requests. They have set up a task force to go through documents.

The intelligence community has been talked to at the very highest level by members of the Marshals Service and OSI, and they have pledged their continuing cooperation. I believe we have in place a mechanism that is capable of undertaking this difficult mission.

I am very encouraged by the participation of the Marshals Service. OSI has tremendous lawyers, they have good investigators, they have a group also of historians that devote their entire energy to this area, and combining that with the police capabilities of the Marshals Service, makes a formidable team, in cooperation with

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other Federal agencies, and foreign governments we are now talking to.

Senator D'AMATO. Recognizing that this effort takes on international aspects, how would you characterize, to date, the reaction of other nations to whom we have turned for cooperation, No. 1, in terms of information of the historical type that we have talked about, and No. 2, in terms of where Mengele may or may not have been to date?

Mr. TROTT. The cooperation thus far, of the countries to which we have turned for help, could not be better. I, frankly, have been amazed at the speed at which they have provided us with everything we think we need in order to pursue this.

Senator D'AMATO. Would you suggest, and this is again in terms of their priorities, it is one in which they are anxious to participate in aiding the United States in this undertaking?

Mr. TROTT. Absolutely. There are, as the committee well knows, two effective warrants outstanding for his arrest, in preparation for his prosecution, from both West Germany and Israel, and both of those countries could not be more helpful.

Senator D'AMATO. Mr. Chairman, I have no further questions, and again I would like to commend Mr. Trott and those who are working with him, because I really do believe that this is not just an investigation that has been ordered, but one that is being pursued to its fullest extent, with the total cooperation of our own agencies, and hopefully, our allies, and other nations throughout the world will have very, very meaningful participation in this long overdue manhunt, and investigation.

Senator MCCONNELL. Thank you, Senator D'Amato.

Senator Simon.

Senator SIMON. Thank you, Mr. Chairman.

In reading the attached 1984 highlights of your Office of Special Investigations, going through the various cases, I notice that we are deporting people to Portugal, West Germany, the Soviet Union, Venezuela.

I guess I have two questions. One is what is happening to these people when they go to Venezuela, or some place else? And, second, let us suppose that we do find Dr. Mengele somewhere.

Are we going to simply deport him to Uruguay or Venezuela or some place else? How do we make sure that there is some justice, beyond simply a slap on the wrist, and say you have to go to Venezuela, which is hardly the kind of punishment deserved considering the crimes involved?

Mr. TROTT. First off, Senator, if there is an outstanding warrant for the prosecution of any Nazi war criminal, the Office of Special Investigations, in the Department of Justice does everything within its power to bring that person within the framework of extradition, so that the person can be returned to the appropriate country for whatever prosecution awaits.

The difficulty here is that there is no law in the United States that essentially gives us prosecutive jurisdiction for war crimes, talking now about 1985.

The program that was established by Congress in 1979, from which OSI derives its authority, was a program that preceded from that assumption, that we would not be able to prosecute people

that we were locating on this program, but what we would do would be able to locate Nazis living in the United States, Nazi collaborators living in the United States, who had lied about their entry into this country, by falsifying and forging information on the documents that are necessary to secure entry into this country, and later on to become citizens.

The way Congress set up this program, was in two stages. First, after identifying these people, and that is why we have so many historians on our staff, as well as lawyers and investigators, we would then take steps to strip them of their citizenship, by denaturalization procedures, which are civil proceedings, which OSI uses to go in and take somebody's citizenship away on the basis of their background, the fact that they lied their way into the United States, and that is again pursuant to the congressional mandate that this shall be done.

And the second step then is the deportation proceedings. Those right now are the only tools within our legal arsenal; the denaturalization and deportation and extradition to countries that have outstanding warrants.

OSI has a very, very good working relationship with countries around the world in order to pursue this, and in many cases I can agree with what you just said, Senator, that if you look at where some of these people have gone, and compare it to what they have done, it is a shame that in 1985 we are not able to exercise more authority over that, and to cause something to happen.

But these are the restrictions that the program has to work with. But it is very important to remember that what Congress asked this country to do, was to make sure that this class of person would not be allowed to live in the United States, and to participate in the great privileges of being a citizen of this country, and everything that means.

So although in one sense some of these people appear to have gone to places where many people go on vacation, for example, I can guarantee you, on the basis of my work for the last 1½ years with the Office of Special Investigations, that these people we are talking about are very, very upset by this procedure, that they do not want to be stripped of their citizenship, and sent from the United States. They fight like cats and dogs to prevent this from happening, and again, the bottom line is it is the only thing we can do with them under the current state of the law.

Now, you ask what will we do with Mr. Mengele if we capture Mr. Mengele. Fortunately, there are warrants for his arrest, preparatory to his prosecution, outstanding from West Germany and Israel, and it is our full intention, in the pursuit of this mission, to do everything possible to position Mengele so that he will be able to be extradited to those countries for prosecution.

Senator SIMON. That is at least encouraging. What about these people? Let us take a name out of a group here, Anatoly Hrusitsky, and I may be mispronouncing his name, involved in murdering Jews. He has been deported to Venezuela.

Is there any prosecution in Venezuela, or is he living in a seaside resort in Venezuela? What is happening? I am not not just picking on this one individual, but I would be interested if you could provide for the record, in addition to answering this question on him,

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what has happened in these other countries where people have been deported, so we can add that to the record here.

Mr. TROTT. In some of the cases listed in here, you will notice people are going back for prosecution. In a couple of these cases that are referred to that essentially is the case. In other cases, however, where there is no outstanding warrant for prosecution, there is nothing we can do except strip them of their citizenship in this country, and throw them out.

Mr. Hrusitzky lives in Venezuela. I would assume he is under no particular disability in Venezuela. That does not proceed from a lack of desire on our part to cause a person to pay a price for what he did, but simply from a lack of legal tools to do anything other than what we have done.

As you go through here you will probably get a sense that this is not an easy task, in the sense that we know what the objective is, but accomplishing it is a little difficult. If you were a foreign country, and you were approached by the United States, and were told that we would like to deposit within your borders a Nazi war criminal, it is very unlikely that you would be willing to accept that person into your country, no matter which country it was.

So this is, in terms of the management of this program, if I can use that term, very, very complicated, and requires the continuing attention of the Justice Department and the State Department to accomplish the goals that set forth in the program.

Senator SIMON. Thank you, Mr. Chairman.

Senator MCCONNELL. Senator Metzenbaum.

## OPENING STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Mr. Trott, I am interested in the fact that the U.S. marshals are to be used more extensively now than they were in the past, and that they will assume primary responsibility for that part of the inquiry designed to locate Mengele.

I am frank to say to you that I am concerned about the use of these U.S. marshals. Most of those whom I knew were not really especially trained police officers. They were political appointments, to be specific, and I am concerned about using these men, most of whom are somewhat up in years, who are not particularly trained in law enforcement. They are pretty good at escorting a prisoner from Nashville, TN, to Cleveland, or vice versa.

What does it mean to give the primary responsibility to the U.S. marshals. I do not even know that there is a U.S. marshals force. You have some in Cleveland, you have some in Toledo, you have some in Chicago, you have some in Philadelphia and Pittsburgh. But to turn over to them the primary responsibility of locating Mengele?

Mr. TROTT. Senator, I am delighted to answer your question, despite the pained expressions on the part of some of the staff, that they have heard me before, but I would not hesitate to tell you that when I became a Federal prosecutor in 1981, the Marshals Service was in a difficult period, and I can understand how you might have a question mark with respect to the Marshals Service.

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But I can guarantee you that the question mark in your mind with respect to the U.S. Marshals Service relates to the Marshals Service pre-1980, and I do not mean this as criticism of anybody.

But let me tell you, since 1980, the U.S. Marshals Service, with the new grant of authority in the area of fugitives, has become the best fugitive hunting operation in the world.

Starting in the State of Florida, they put together something called a fugitive intensive strike team, recognizing that there is a real problem in this country, where we are holding someone for court, and they get out on bail, and they do not come back. These people become sort of career criminals, outlaws living off the land.

Without getting into too great detail, the Marshals Service started running fugitive intensive strike teams in Florida, New York City, District of Columbia, and they began to realize, in dedicated 10-week periods they were scooping up hundreds of career criminal fugitives, murderers, robbers, rapists, and they developed an unusual expertise at doing this. They became so good they came to California when I was the U.S. attorney, and took on the entire State. They organized all of law enforcement in the State, not as a Federal initiative, but as a law enforcement initiative. State sheriffs, local police officers, highway patrol officers, and in a 10-week period scooped up 1,000 career criminal fugitives. That is in a 10-week period.

They took on the entire State of Michigan and did the same thing. They expanded to the extent that the next one they took on extended from Baltimore to Boston, and in a 10-week period, from Baltimore to Boston, they arrested over 3,000 fugitives.

This is an operation now, as I say, that is so far out of the field that it leaves behind the old state-of-the-art description. So if there is anybody that knows how to catch fugitives, it is the Marshals Service.

There are other initiatives that the Marshals Service has been engaged in that, frankly, I am not at liberty to discuss, that indicate clearly to me that they have a capacity that is not just national, but international in dimension.

Frankly, if it were any agency other than the Marshals Service at this juncture, I would have a question, and I am only hesitant in discussing this for one reason. We are concerned now that we have this initiative on our plate, that we do not want to create so much publicity that the target will harden, but I want you to know that the Marshals Service is the best at this. This is really one of their first priorities, and I have been astounded at their ability to get the job done.

Senator METZENBAUM. How do you get to be a U.S. marshal?

Mr. TROTT. U.S. marshals are appointed by the President, and that comes through U.S. Senators.

Senator METZENBAUM. So it is a political appointment?

Mr. TROTT. In the first instance, a U.S. Senator raises the name, so all marshals, with the exception of a few, where you might have somebody in place, come from the U.S. Senator.

That nomination from the U.S. Senate, as in the case of Deputy U.S. marshals and U.S. attorneys, then goes into the White House. The President makes the appointment, and frankly, I do not know whether it is a confirmed position or not, over here in the Judici-

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ary Committee, but also I can tell you that the kinds of marshals that are out there right now are real law enforcement professionals.

The Assistant Director of the Marshals Service, who is in charge of the Office of Operations, is a man well-known to Senator D'Amato. This is a man with 20 years of experience with law enforcement, and not in just the Marshals Service. His experience extends in other law enforcement agencies in the Federal Government that have worldwide jurisdiction.

This is a first class, A-plus operation.

Senator METZENBAUM. They are appointed, the U.S. marshals. I think we do confirm them, as a matter of fact. With that other crowd in, I do not get much chance to make that decision, but we do confirm them.

Senator SPECTER [presiding]. Are you kidding?

Senator METZENBAUM. Yes; how about the people he brings on board?

Mr. TROTT. The deputy marshals are remarkable. They have gone out and arrested 7,000 fugitives.

Senator METZENBAUM. Where does he get them? Do they have to take an exam?

Mr. TROTT. These are law enforcement professionals. They come on board, they have significant training. They have their own academy, and they have status in their own right, that is equal to the other kind of law enforcement agencies with which you are familiar.

The transformation that that Service, within the last years, has undergone has been staggering. It is a first-class operation.

Senator METZENBAUM. I do not mean to demean the U.S. marshals, but rather my concern is whether the job will be done, since most of it has to be done outside the country, and I must confess that I was sort of taken aback when I was that the primary responsibility was going to be given to the U.S. marshals.

But in all fairness, nobody else has done that great a job, since the war, so maybe the opportunity is a great one for them.

Mr. TROTT. Senator, well, for example, the other agencies with which you are familiar had a lot of very important items on their agenda. The Marshals Service has a lot of very important duties also, but the fugitive duty is really a first among equals, and I would be delighted to have the Marshals Service send you its material on its fugitive program, that it has been engaged in for the last 4 years, because I think you will be equally as pleased as I am.

Senator METZENBAUM. All right.

Tell me, what kind of degree of cooperation do you get, or do you expect to get, or have you gotten from the CIA?

Mr. TROTT. The degree of cooperation that we have gotten from the CIA has been very good, and I believe that we will get every bit of cooperation we need from the intelligence community in this country to carry out the mission. Contacts have been made at the very highest levels, and we have had a pledge from everybody, to make sure this is done in the appropriate way.

Senator METZENBAUM. You received such a pledge from the State Department and the FBI, is that right?

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Mr. TROTT. Yes, the Army could not have been more helpful. They are going through its documents now. They have set up a special task force. I have met a couple of times with the Army's general counsel, and their team, and I think everything is moving in the appropriate direction.

Senator METZENBAUM. When we had a witness here on an earlier occasion, from the Army, we did not get that impression. There may have been some change in the last several weeks. We had the impression that what we asked them to do they would do, but that absent some prod, the Army was not going to do a hell of a lot. Has there been some change that you have noticed, in the last several weeks?

Mr. TROTT. Yes, Senator. I was not here at the last meeting. I have read the transcript. I know what you are talking about. But all I can tell you is that the Army has been completely cooperative, and very helpful.

Neal Sher, who heads the Office of the Special Investigations, tells me the Army is coming forward with its files, has made available a special team, and he is very, very heartened with this effort.

Senator METZENBAUM. There is evidence that Mengele was heavily involved in drug trafficking in 1970. To what extent is the DEA involved?

Mr. TROTT. Senator, you may have not been here earlier when I mentioned that we would respectfully request permission not to get into those kinds of details, because we believe that confidentiality in a certain measure is necessary to carrying out this initiative. But what I can tell you is that one of the people that I referred to earlier used to work for DEA, and he understands that business inside and out, and there will be no lack of cooperation from that side of the house.

Senator METZENBAUM. You can assure us that the DEA will be cooperating?

Mr. TROTT. Yes. DEA, as you know, is part of the Department of Justice, reports to the Attorney General.

Senator METZENBAUM. Now, I think you indicated that the Government of Paraguay is cooperating?

[Mr. Trott indicating no.]

Senator METZENBAUM. You did not?

Mr. TROTT. I have not mentioned the Government of Paraguay.

Senator METZENBAUM. The Government of Paraguay recently reported, or it was reported to have said the case of Mengele is closed. How can we get them to open it, and to cooperate with the United States?

Mr. TROTT. Well, that is probably a good question, but without going into——

Senator METZENBAUM. You do not have a good answer?

Mr. TROTT. Without going into any details, I believe we have in our game plan ways of taking care of that part of the equation that should produce the information that we need to have, and again, I respectfully request permission to decline to go into any of the investigative details.

Senator METZENBAUM. I do not want you to go into the investigative details, but I think the committee is entitled to know, either yes or no, whether or not the Government of Paraguay is cooperating.

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Mr. TROTT. Well, I do not think we are really, in terms of our investigation, at that stage yet, among other things. It would be premature for me to give you any evaluation of the cooperation or the lack of cooperation of that Government. There have been people down there recently who bring back reports, but I do not think it would be useful for me to repeat those, what those reports are, in this committee.

Senator METZENBAUM. Well, I understand that. You have been in office 18 months?

Mr. TROTT. I have been the Assistant Attorney General for about 1½ years. Before then I was the U.S. attorney in California.

Senator METZENBAUM. During that year and a half, or 18 months, are you aware of any instances of cooperation from the Government of Paraguay, or are you aware of any instances of refusal to cooperate, or unwillingness, or indifference?

Mr. TROTT. Senator, I am aware of many aspects of what you just talked about, but I am not sure that it would be productive for me to characterize the factual information that I have, as either cooperative or noncooperative.

I have had meetings with people who have been in Paraguay recently, and they have told me what representatives of the Paraguayan Government have said to them. I do not think it would be at all productive for me to characterize that as cooperative or noncooperative.

Senator METZENBAUM. Why?

Mr. TROTT. Excuse me?

Senator METZENBAUM. Why. Describe it any way you want. Why do you not indicate what was said, or who said what, because I think that this committee is entitled to know when a foreign nation, which has its own other relationship with our country, whether or not that government is or is not being cooperative. If you do not want to describe it as giving it a term of being cooperative or noncooperative, then I would ask you to tell us who said what, or in what manner it was stated.

I think we are entitled to know the facts, because I do not really believe it relates in any way to the efficacy of your investigation.

Mr. TROTT. The Government of Paraguay indicated to a delegation of persons who traveled down there a few short months ago, that they would cooperate with anything that the U.S. Government wished to do, to find out whether or not Dr. Mengele was there. They even indicated a willingness to have a team go down to Paraguay and participate in a search for Dr. Mengele.

I met personally with some of the people who were down there. We talked about a lot of aspects of that. That is what was said.

But I just am not in a position to be able to give you any assurances as to whether what was said was real or not.

Senator METZENBAUM. I appreciate that.

Mr. TROTT. I know what was said, but I am——

Senator METZENBAUM. I think that is all you can do. You cannot go behind what was said.

I appreciate this, Mr. Chairman.

Thank you.

Senator SPECTER. Thank you, Senator Metzenbaum.

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There is a disclosure in the current April issue of the Bulletin of Atomic Scientists, which relates to a situation where American intelligence officials concealed the Nazi records of hundreds of former enemy scientists, to try to get them into the United States after World War II, contrary to a Presidential order, and against the objections of the State Department, in an article which further discloses or alleges that American authorities knew that many of the specialists were "hardened Nazis implicated in atrocities," and doctored their dossiers to hide that.

This has been a matter which staff has discussed with you in advance, and I would be interested in your understanding of the accuracy of those assertions, Mr. Trott.

Mr. TROTT. Senator, I do not possess enough knowledge to be able to give you a sense of whether those assertions are correct. What I can do is tell you that the operation that you described is one that has come under the scrutiny of OSI.

The case of Arthur Rudolph, which listed in the 1984 highlights, is one of those cases. This is a person, Mr. Rudolph, who gained notoriety in this country because of his work on the Saturn V rocket project, and when OSI surfaced sufficient information to indicate that he was eligible for our program of denaturalization and deportation, proceedings were commenced against him, and now he is back in West Germany. He has been stripped of his ability to live in the United States.

That should indicate, Senator, that persons who have been described in that program are not at all immune from the reach of OSI.

Senator SPECTER. The article asserted that between 1945 and 1955, there were some 800 former enemy rocket experts, and other specialists brought into this country under an American intelligence program, first called Overcast, and then Project Paperclip.

Do you know enough about that to make any meaningful comment?

Mr. TROTT. Senator, I have read many times about Operation Paperclip. As I indicated, Mr. Rudolph was apparently a part of that program, but beyond that I do not have enough personal information to be able to engage in any intelligent dialogs with you.

Senator SPECTER. That matter is under inquiry by the appropriate Federal agency at this time?

Mr. TROTT. In the sense that anybody who was in that program, is also eligible for OSI attention. The fact they were in the program does not give them immunity.

Senator SPECTER. And there are inquiries to see if they were improperly brought into the United States, contrary to the Presidential order issued at that time?

Mr. TROTT. I am not exactly sure if it has quite reached that level, but what we are working on are the individuals involved. That is the mandate. We are not investigating Paperclip itself, as a program, only the individuals, to see if they are eligible for denaturalization and deportation.

Senator SPECTER. But as the investigation of the individuals progresses, there may or may not emerge a pattern?

Mr. TROTT. That is absolutely correct.

Senator SPECTER. A concerted act to bring them in contrary to U.S. policy, and by doctoring of records, and falsification of records?

Mr. TROTT. That is certainly a possibility.

Senator SPECTER. Anything further, Senator D'Amato?

Senator D'AMATO. No.

I am sorry Senator Metzenbaum is not here, but for the record, the people who are undertaking this investigation are dedicated and capable, provided they have that kind of interrelationship with the other departments. DEA, FBI, the Intelligence Service. For the record, Mr. Casey and I spoke, and he assured me personally of his full cooperation with this investigation, that he has made it known. That is something that we did not have heretofore.

You and I, Mr. Chairman—I think it is important we should put this on the record—we both raised the issue of Mengele with Secretary Shultz. He also indicated that this would be a priority matter with the State Department, in terms of its cooperation. He and Secretary Marsh, Secretary of the Army, have indicated that is so.

I take people at their word, in undertaking this, and Mr. Safir, who is the person who has the day-to-day overall responsibility of the field work, has vast international experience. I would hate to think that this would be treated as something being undertaken by the marshals as a kind of Matt Dillonish effort.

This is done in cooperation with all these other agencies. Mr. Safir has broad international experience, so there is someone who is designated as the lead. But certainly all of the other agencies will be working with him in a cooperative effort.

Mr. TROTT. I could just add, Senator, the other day when I was preparing to come over and talk to the both of you, when I was briefed by the U.S. Marshals Service on the extent of their preparations and their program for this undertaking, I was briefed by the Director of the Marshals Service himself, Stanley Morris, so this is very unusual, that the Director of an agency would have the on-hands knowledge of the parameters of what is planned.

So that shows you the level of attention that this is getting in the Marshals Service.

Senator SPECTER. Thank you very much, Mr. Trott. I appreciate your cooperation, and appreciate your continuing effort.

Mr. TROTT. Thank you.

Senator SPECTER. I would like now to call Gerald Posner, Esq. Mr. Posner has undertaken, as I understand it, extensive research into Josef Mengele's postwar life over the past 4 years, and during that time he has traveled to several continents, interviewed numerous people, relating to the case, and has an enormous file chronicling Mengele's life since 1945.

This subcommittee appreciates your joining us, Mr. Posner, and we look forward to your testimony. Your full statement will be made a part of the record, as is our practice and to the extent you can summarize it, we would be appreciative.

## STATEMENT OF GERALD L. POSNER, ESQ., NEW YORK CITY, NY

Mr. POSNER. I would just like to take a couple of moments to summarize some of the pertinent parts of the written statement.

Thank you, Senators.

I am an attorney who has been researching Josef Mengele for the past 4 years, and I believe that I may have compiled one of the most extensive written records on his postwar life that exists, about 25,000 document pages.

I have had access to the archives of many different nations, including intelligence and police files in South America, and I have just returned from a 2 month trip to South America, in November and December 1984, during which time I met with many ranking military and civilian leaders of South America, who profess to be defenders and friends of Dr. Mengele.

Today I would like to limit and focus the information and testimony that I will provide to this subcommittee, to four specific issues, which I believe have been investigated previously, or are within the scope of the investigation being conducted by this subcommittee.

I would like to alter the order of the written statement. The first issue I would like to address is that of the International Red Cross. The best available information is that Josef Mengele departed from Europe in the late summer of 1949, on an International Red Cross passport issued by the Italian Committee of the International Red Cross in Genoa, No. 100501.

The Red Cross file, if properly maintained by that organization, should have some of the most pertinent and important information that remains undisclosed about Josef Mengele. It should have copies of the travel documents from each nation, at the points be crossed from Germany into Austria and then into Italy. It should have the original questionaires filed by Dr. Mengele, and in addition, it should give the sponsoring organization for Dr. Mengele's exit from Europe, which if one then checks some of the intelligence material available at the time, such as the La Vista State Department report, it might answer the question as to who, maybe the Americans, or maybe Nazi groups, sponsored Dr. Mengele's exit.

That file has been maintained in secrecy for 40 years in Geneva. I was rebuffed last summer when I tried to obtain access to it. The answer from the International Red Cross was that they would not release it to a third party.

However, they said they would release it to a government, if a government is conducting a proper investigation. When I inquired as to whether any government had ever asked for that important file, their response was, never. No government, whether it is Germany, or Israel or the United States, or any South American country, has ever asked for the International Red Cross file on Mengele.

I respectfully request that this Senate committee should direct the appropriate U.S. Government agency to so request that file, and upon its receipt make the information public, therein.

Senator SPECTER. It is an excellent idea, Mr. Posner, and we shall do just that.

Mr. POSNER. Thank you, Senator.

The second issue I would like to address is an issue which I believe is related, and within the purview of what this committee is researching.

I understand that you are specifically looking at possible intelligence contacts with Josef Mengele, postwar, 1945, and up to the

time he fled Europe. I have uncovered, during the course of my own investigations, documents, counterintelligence corps documents, which indicate that American intelligence appears to have had contacts with a major ranking Nazi after the war, and that Nazi, in particular, can also be traced to Josef Mengele. I believe that an investigation into this subject may produce fruitful results for this committee.

I have information that the Nazi is Maj. Frederich Schwend, who answered directly to Himmler and Kaltenbrunner in the Third Reich, and who was Hitler's counterfeiter and mastermind of Operation Bernhard, which was the Nazi plan to flood the international currency markets with billions of counterfeit English pound notes, thereby crashing the British economy.

Schwend also ran a Nazi escape organization, under the cover of a Jewish relief organization, after the war. The organization was headquartered in the Rametz Castle located on the Brenner Pass, one of the main routes for Nazi fugitives from Austria into Italy. It is believed to be the route that Mengele may have been taken on his way into Italy.

If Mengele was assisted by Schwend and his cronies, then a direct link to U.S. intelligence may be established. He may have been assisted by American intelligence in his escape, according to the documents I have, and I suggest that this subcommittee look into two specific questions, which is, first, did American intelligence know that Frederich Schwend, a major Nazi war criminal, who was called that in other American intelligence documents, was operating an escape safehouse on a major network into Italy, and second, did Josef Mengele, in fact, stay there. The Red Cross file would also be able to answer that question.

It is difficult for me to imagine that Major Schwend worked for American intelligence, in any capacity, and that American counterintelligence was not aware of the fact that he also operated an escape network for Nazis. I believe this issue may produce results which directly could answer the question of whether American intelligence had ties to Josef Mengele after the war.

A third area which this subcommittee is very interested in is the question of whether there was direct American contact with Josef Mengele. I do not have definitive evidence one way or the other, either to dispel the notion, or to otherwise indict American intelligence, and say that they were guilty. However, I know that there are some important questions which I hope this subcommittee is currently addressing, and will continue to do so in my research.

In the last several days in the news there have been reports of a small village near Gunzburg, Mengele's hometown, called Autenried, approximately 12 kilometers away. There is testimony that Josef Mengele may have stayed there after the war.

Two American counterintelligence index cards, one dated 1960, and the other undated, lists Autenried as Josef Mengele's address. The question is, When did counterintelligence know about Autenried?

If it was between 1945 and 1949, they could have arrested Josef Mengele.

From information I received from a retired member of British intelligence, in Autenried there was a chateau/castle, in fact, a three

story chateau directly behind the house that Mengele supposedly rented, that was used as a safe house by ex-Nazi SS officers after the war, and that Mengele stayed there in April and May of 1949, while his travel documents were being prepared by the International Red Cross.

I believe it is important to find out whether counterintelligence knew there may have been a Nazi safe house in Autenried, and that Josef Mengele may have been embarking on his journey out of Europe in 1949.

In addition, a question which I do not believe has been answered yet by American forces, is why, although they knew of Josef Mengele's crimes, and that is clear from Mr. Gorby's letter in April of 1947, and from the former commandant of Auschwitz Extermination Camp, Rudolf Hoess, at the Nuremberg trials, they never went to Gunzburg to ask if Josef Mengele was, in fact, there.

I have copies, five, six pages, from his Nazi Party file, which indicate Josef Mengele's place of birth was Gunzburg. These were captured intact by American forces after the war.

I have information from town residents that Josef Mengele not only resided in Gunzburg, but worked in the family factory. Dieter Mengele, his nephew, claims that American forces never went to Gunzburg to question whether Josef Mengele was there.

The last issue that I would like to raise before the subcommittee is that I understand that the Mengele family is now claiming that it does not have business contacts in the United States, due to the fact that they claim they sold their one-third interest in an entity, KMN International Farm Machinery, Inc., a Delaware corporation, that operated in New Jersey.

They told ABC correspondent John Martin, as of 1976 they had eliminated their business interests here in the United States. I have before me a 1981 Dun & Bradstreet report that Karl Mengele & Sons, the German entity, has a one-third continuing interest in KMN International Farm Equipment, Inc., and moreover, just yesterday I checked with the Department of State of incorporations in New Jersey. They informed me, as of December 31, 1984, KMN was dissolved in New Jersey as an entity to do business, but as of that date Dieter Mengele, Josef Mengele's nephew, was listed with the Department of Corporations for the State of New Jersey as the individual upon whom legal process should be served in case of a lawsuit.

Why is Dieter Mengele, Josef's nephew, and an executive of Karl Mengele & Sons, in Germany, still listed on the corporation records almost 8 years after the Mengele family claims that it dissolved its interests here in the United States?

I would like to thank this subcommittee for the opportunity to appear before you, and I hope I have been able to provide some information that may be of use to you in your further investigations.

I am very hopeful that your investigations into the International Red Cross and the Schwend case, which I believe is as significant as the Barbie disclosures or the Nazi rocket scientists that you mentioned, Senator Specter, will provide fruitful results, and more information, and will possibly resolve questions of whether there was or was not contact with Americans after the war.

[The prepared statement of Mr. Posner follows:]

# Prepared Statement of Gerald L. Posner

## 1. BACKGROUND OF RESEARCH

I have been researching Josef Mengele's post-war life for the past four years. During that time, I have travelled to four continents, interviewed scores of people related to the Mengele case, and gathered what I believe is the largest Mengele file in existence, nearly 25,000 pages, chronicling his life since 1945 in substantial and credible detail. Many of the facts I have uncovered have never before been disclosed or discussed.

During the course of my research I have had unprecedented access to the some of the intelligence and police files of Argentina, Brazil and Paraguay.

During November and December of 1984 I spent two months in South America researching the Mengele case. During that time I met with many friends of Dr. Mengele, including ranking military and business people in several countries. I also spent nearly three weeks with Colonel Alejandro Von Eckstein in Paraguay.

Colonel Von Eckstein is a ranking member of Paraguay's intelligence service and a close personal friend of President Stroessner, to whom he introduced me. Moreover, Colonel Von Eckstein was one of the co-sponsors for Josef Mengele's citizenship papers in 1959, and is Mengele's admitted friend and defender (Mengele's other co-sponsor for citizenship, Werner Jung, former chief of the Nazi party in Paraguay, died over a year ago in Bilbao, Spain.) During the course of our three weeks together, Colonel Von Eckstein introduced me to many friends of Dr. Mengele throughout Paraguay, and for the first time ever he spoke openly and freely about Dr. Mengele's past movements in the 1960's and 1970's. Subsequent research has confirmed most of the

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Colonel's stories and he has filled in important gaps in Mengele's existence for nearly two decades.

I am currently completing a historical manuscript of Mengele's post-war existence, as far as one can be documented and factually supported.

Today I will limit my testimony to four issues related to subjects that have been raised before this Senate Committee.

2. POSSIBILITY OF U.S. INTELLIGENCE INVOLVEMENT WITH MENGELE

On September 1, 1983, pursuant to a Freedom of Information Request to the archives of Ft. Meade, Maryland, I was provided with copies of the April, 1947 correspondance from Counter Intelligence agent Gorby indicating that Mengele may have been captured in Vienna. Those same documents were obtained by the Simon Wiesenthal Documentation Center in November, 1984, and subsequently released to the press.

During the nearly 20 months I have had those documents I have researched the question of possible American involvement. To this date conclusive evidence does not exist to incriminate or absolve U.S. forces, however important questions must be answered by the American Intelligence forces: The questions which must be answered are:

a) Two American Counter Intelligence index cards, one dated 1960, and the other undated, indicate Mengele resided in Autenried, a village approximately 12 kilometers away from Gunzburg, Mengele's hometown.

Actually, Dieter Mengele, Josef's nephew, has said that the Mengele family sought refuge in Autenried during the Allied bombing of Gunzburg. Autenried was never bombed.

In addition, several residents have said that Irene and Rolf, Mengele's first wife and natural son, resided in Autenried from 1945 to 1947. Another villager told Hans Eberhard-Klien, the German Prosecuter in charge of the Mengele case, that Mengele resided in the town together with his family from 1945 to 1949.

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Information that I received from a retired member of British Intelligence is that a chateau/castle in Autenried served as a post-war safe house as part of a Nazi escape route. The chateau was allegedly frequented by former SS officers under the direction of Colonel Hans Ulrich Rudel, Hitler's most decorated pilot during the war, and the post war director of an escape organization known as the Kameradenwerk.

According to the British intelligence source, Mengele stayed in the Autenried safe house during April and part of May, 1949, while his travel documents were prepared for his exit from Europe. After the International Red Cross issued his travel identity passport in May, 1949, Mengele was escorted through Austria into Italy from where he later departed from Genoa.

In Autenried there is a large three story chateau - it is almost directly behind the small farmhouse where villagers state Mengele and/or his family resided for part of the post war years.

One of the important questions regrading Autenried is at what time did American Intelligence know Mengele was there? If intelligence knew between 1945 and 1949 they could have arrested him. The second important Autenried question is whether the Autenried chateau was indeed a Kameradenwerk safe house and if so did the Americans know about its operation and allow it to exist nevertheless?

b) Another important question which has not yet been asked is why American intelligence never sent anyone to Gunzburg to inquire about Mengele. Several town residents have told me that Mengele resided openly in Gunzburg from mid 1945 to mid 1949. During that time the Americans certainly knew that Mengele had been involved in possible crimes against humanity. For instance:

First, Mr. Gorby, the Counter Intelligence special agent,

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states in his April, 1947 letter that he knew Mengele was one of the chief doctors in the "Auschwitz Extermination Camp". Moreover, Rudolf Hoess, the former commandant of the camp, who was hung in 1947 for his crimes, testified at his post war trial that "Medical experiments were carried out in several camps. For instance, in Auschwitz there were...experiments on twins by SS medical officer Dr. Mengele." The Americans were familiar with this testimony.

Armed with this information one would expect the Americans to attempt to find Mengele. After the war the Americans captured, intact, millions of NSDAP (Nazi party) membership files. The one on Josef Mengele clearly lists place of birth as "Gunzburg" a Bavarian town within the American sector after the war. Yet, Dieter Mengele states unequivocally that no American troops ever came to inquire about Josef after the war.

Moreover, residents in Autenreid claim that no American troops even passed through their village after the war.

If only one intelligence officer had bothered to check Mengele's Party membership file he might have been in custody before 1950.

Moreover, the Mengele family maintained a successful farm machinery manufacturing firm - farm equipment could be seen throughout Germany stamped with the name "Mengele". Yet no American intellignece officer ever bothered to question the corporate giant to determine if any connection to the Auschwitz doctor existed. Actually, for most of the time Josef Mengele was in Gunsburg after the war he worked for the family business.

c) A final question which American authorities should answer is why Mengele was never indicted for crimes under the Allied juriadiction. Until 1955 only the Allied powers could technically indict for war crimes. Although

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Mengele's crimes were known to the Americans no indictment was ever issued.

It was not until June of 1959 that Judge Muller issued an arrest warrant on behalf of the Federal Republic of Germany. If the Americans had indicted Mengele earlier his relatively easy life in Argentina might have been made considerably more difficult.

3. INTERNATIONAL RED CROSS INVOLVEMENT WITH MENGELE

Mengele left Europe in late August, 1949, and checked into the Federal Police in Buenos Aires on September 17, 1949. He travelled on an International Red Cross Passport, issued from the Italian Committee of the International Red Cross in Genoa, Number 18851. It was made out to the alias "Helmut Gregor" and the picture on the passport was actually of Mengele's younger brother Alois. However, Mengele himself did sign the name "Helmut Gregor" across the I.D. picture.

The International Red Cross file on Mengele, which is maintained in Geneva at the International Red Cross headquarters is probably one of the most important files still undisclosed regarding him. If properly maintained it will disclose important information about Mengele's exit from Europe, which may finally prove or dispel the alleged American connections to him.

If intact, the Red Cross file should have copies of the the travel papers created at each country through which Mengele passed on his way into Italy. The file should also have Mengele's orginal refugee questionnaire as well as the name of the Italian refugee organization that sponsored Mengele's exit from Europe. In essence, the Red Cross file could provide final answers to many lingering Mengele questions.

In 1947, Vincent La Vista, a State Department official, in a top secret report to the State Department commented that

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"practically all illegal emigration" in post-war Italy was "clear[ed] through or came in contact with the International Red Cross." La Vista noted that the International Red Cross had a practice of sending off all its records to its headquarters in Geneva, where they were maintained closed and in privacy. La Vista concluded "It is the opinion of this writer, however, that an examination of the records in Geneva of all passports issued by the International Red Cross would reveal startling and unbelieveable facts."

Nearly 40 years after the La Vista report the International Red Cross still shrouds those files in secrecy and refuses to open the Mengele file for examination.

In June, 1984, I requested that the International Red Cross make the Mengele/Gregor file publicly available. I received a written response on July 3, 1984, from Francoise Perret, Director of the International Red Cross Department of Principles and Law in Geneva. Mrs. Perret informed me that although the Red Cross had "received a lot of inquiries about this [the Mengele case], its "sole purpose...is to assist victims of conflicts, and it has a hard-and-fast rule not to give third parties personal information in its possession."

However, Mrs. Perret said that in the case of war criminals the International Red Cross had decided "in principle" to turn relevant documents over to a government "provided those authorities asked for them with the clearly stated intention of establishing the truth or to conduct an inquiry into war crimes or for the purpose of taking legal proceedings against war criminals."

I subsequently asked Mrs. Perret if any nation had made such a request and she sent me the following response on August 5, 1984:

"[a]fter checking in our archives, we have found that no state or judicial authority has to this day addressed a

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request to the ICRC about Mengele; we have therefore never released any papers about him to anyone."

The International Red Cross file should have been requested by an appropriate government years ago. It is long overdue that an offical request be made of the the Geneva [illegible] based organization - important information is sitting in its archives. I respectfully request that the United States Senate direct the appropriate U. S. government agency to process the necessary request as rapidly as possible, and that the information contained in that file be made public upon its receipt.

4. U.S. INTELLIGENCE CONTACTS WITH OTHER RANKING NAZIS

Although I understand that this Senate Committee is specifically focusing upon possible American involvement with Josef Mengele, I have uncovered documentation which indicates U.S. intelligence involvement with another high-ranking Nazi, who after the war became a close personal friend of Josef Mengele in South America. I believe it is as significant a disclosure of American involvement with Nazis as the Barbie disclosures or those regarding Nazi rocket scientists. Only by ordering a thourough investigation can the U.S. properly determine whether U.S. assistance in the case I have uncovered may have a relation to the Mengele case.

The Nazi in question is Major Frederich Schwend, Hitler's counterfeiter and mastermind of "Operation Bernhard" the Nazi proposal to flood the international currency markets with billions of counterfeit English pound notes, thereby crashing the British economy. Schwend was also the purchasing agent for the SS, the Wermacht and the Security Police. In that role he dealt with hundreds of millions of dollars of [illegible] currency, diamonds, gold, stolen art treasures and booty from the death camps.

After the war, one arm of American intelligence searched

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for him in order to arrest him. In a confidential six-page memorandum, dated August 13, 1946, the Meranno subsection of the Counter Intelligence Corps. stated "[Schwend] was an important figure to the Nazi War Effort...persisitent rumors...that the Subject had more power and authority than an SS General [he answered directly to Kaltenbrunner and Himmler]; that he used large sums of money to buy his freedom from the Allies....This agent recommends that Subject be apprehended since he appears to be too important an individual of the German War Effort to be left free."

While one part of American Intelligene looked for Schwend another used him as an agent. A confidential U.S. Army Security Disposition form, dated August 24, 1959, and signed by legal officer Capitan Alfred B. Jefferson, concludes that "In 1945 [Schwend] was used by Intelligence agencies in the Austria, Tirol and Meranno, Italy areas as an informant. He was also carried as a war criminal".

In 1959, Schwend wrote a letter from Lima to both German Interpol as well as the Consul General of the United States in Munich. In the letter Schwend alleges that several Counter Intelligence officers stole hundreds of thousands of dollars from him after the war. Schwend provides names of the alleged perpetrators as well as witnesses. In addition he states that he worked for U.S. Intelligence after the war for "11 months...beyond the Iron Curtain". In addition, Schwend states that he emigrated to South America with the consent of American intelligence.

The Schwend case is important on its own. It is an example of U.S. intelligence using a high ranking Nazi for its own purposes. But the Schwend case is also important in relation to the Mengele case for several reasons:

a) Schwend ran a Nazi escape organization, under the cover of a Jewish relief organization after the war. The organization was headquarted in the Rametz castle located

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on the Brenner Pass, one of the main routes for Nazi fugitives from Austria into Italy. It is believed to be the route Mengele may have been taken on his way into Italy. If Mengele was assisted by Schwend and his cronies (most of them Aryanized Jews) then a direct link to U.S. intelligence may be established - it is unlikely that the Schwend escape route could have operated without the benign approval of U.S. intelligence;

b) The Schwend case appears to show that some elements of American intelligence may have been susceptible to selling freedom to Nazis for large sums of money. This is of interest in the Mengele case because money is the only negotiating point Mengele could have offered Allied intelligence officers for their assistance. While Mengele had no intelligence value, he certainly had access to large sums of money due to the wealth of his family. The Schwend case could provide a possible motive to American involvement with Mengele, if that involvement can be conclusively proven;

c) It is well established that Mengele and Schwend were good friends in post-war South America. Schwend, Barbie and Mengele were all considered murder suspects during a 1972 Peruvian police investigation into the murder of a prominent Lima businessman, Luis Banchero Rossi. None of them were ever tried in the case - only Schwend could be found and apprehended. If Schwend and Mengele started their friendship in post-war Europe additional credence could be given to the possible American ties to Mengele.

Many of the documents I have received pursuant to Freedom of Information Requests are blacked out. I respectfully request that this Senate Committee order a full investigation into American intelligence assistance to SS Major Frederick Schwend to determine (a) whether U.S. Intelligence might have sponsored Schwend's Nazi escape organization and (b) to

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determine whether Mengele was assisted by that escape organization.

5. MENGELE FAMILY BUSINESS INVOLVEMENT IN THE U.S.

Dieter Mengele, Josef's nephew, claims that the Mengele family, used to have an ownership interest in KMN International Farm Machinery, Inc. of Westwood, New Jersey, but sold its interest in 1976 and never had any further contact with the company.

Dieter's claim would seem to be partially contradicted by documentary evidence. First, I am in possession of a June 25, 1981 Dun & Bradstreet report in which Karl Mengele and Sons is clearly listed as of the three owners, at least through September 26, 1980. Why is Dun & Bradstreet reporting a Mengele family interest four years after Dieter claims it stopped.

Moreover, KMN was a Delaware corporation registered to do business in New Jersey with the Secretary of State. KMN was not withdrawn from New Jersey until December 31, 1984, and during the entire time the company was registered in that state, Dieter Mengele, Josef's nephew and an executive of Karl Mengele and Sons, was listed with the Department of Corporations for the State of New Jersey as the person upon whom legal process should be served in case of a lawsuit. If, as Dieter claims, the family had no connection with KMN after 1976, why was he still listed as the service of process agent eight years after he claims the connection ceased?

Finally, it should be noted that KMN Modern Farm Equipment Inc., which incorporated in Delaware in 1973, is still an active corporation in good standing. Additionally, KMN is registered to do business in at least two other states of which I am aware: Arkansas and Wisconsin. In both of those states KMN registered in 1979 and is currently active and in good standing.

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Can Dieter Mengele prove that notwithstanding his New Jersey affiliation through 1984 that he indeed has no business association with the Delaware corporation and/or the Arkansas or Wisconsin branches?

CONCLUSION

I have presented the above information in the hope that it might assist this Senate Committee in further directing an investigation to determine the extent, if any, of possible U.S. post-war involvement with Dr. Josef Mengele. I hope that further investigations into both the International Red Cross file and the Schwend case may produce fruitful information relating to Mengele.

If I can be of assistance in the future to any inquiry before this Committee I shall certainly endeavor to provide whatever useful information I have.

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Senator SPECTER. Thank you, Mr. Posner.

You have provided some very important leads, and we shall pursue them.

Just a couple of questions, briefly. Are you aware of the statements made by Mr. Walter Kempthorne, a former Army private, who believed that he was a part of a unit where Mengele was in custody in Germany in 1945?

Mr. POSNER. Yes, I am, Senator.

Senator SPECTER. Has your investigation disclosed anything which would corroborate, or shed any light on what Mr. Kempthorne has said?

Mr. POSNER. No. Unfortunately, it has not, Senator Specter, and I wish I was able to provide you conclusive information, one way or the other, but I am not.

You should be aware that it is my understanding that a German prisoner of war, Thomas Berdhold, who was held in a British camp, is about to come public very shortly, with information that he claims to have seen Josef Mengele, as a prisoner, in that British war camp after the war.

Senator SPECTER. In a British war camp?

Mr. POSNER. Yes.

Senator SPECTER. What time?

Mr. POSNER. 1945 is my understanding. I have not yet had the opportunity to talk to the individual, but there will now be three, detention periods, one being in a British detention camp, another is 1945, Mr. Kempthorne's testimony, and the last being the possibility of April 1947, Mr. Gorby's letter.

Senator SPECTER. I was about to ask you about Mr. Gorby's letter.

You talk about Mengele perhaps being in Autenried in the period 1945 through 1949, where he could have been arrested by American authorities.

Do you have any knowledge relating to what the Gorby letter referred to in 1947, about the information of Mengele being arrested in Vienna?

Mr. POSNER. No, I do not, Senator, except for Mr. Gorby's statement. Although he does not recall the answer from the Vienna Counterintelligence Corps Detachment regarding whether Mengele was actually held, he did state that he would not have placed that information into a written letter unless he believed his informant was a reliable source.

Senator SPECTER. Have you talked to Mr. Gorby?

Mr. POSNER. I have, through an intermediary. I have not talked to him directly.

Senator SPECTER. You have not talked to Mr. Kempthorne?

Mr. POSNER. No, I have not.

Senator SPECTER. Senator D'Amato and I did, and found him to be a very credible witness, in terms of his information, and the corroboration that he was, in fact, there at that time.

Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Let me, first of all, commend Mr. Posner for his presentation and his work in this area.

With respect to Mengele, and whether or not he came into our custody, I had the opportunity, along with Senator Specter, to meet Mr. Kempthorne. Not only was he a very credible witness, but he did have corroboration in the way of pictures and documents that he submitted to us. Then, of course, Mr. Schwartz, who served at that same prisoner of war camp, who is here today, in the second row, who lives here in Washington. He is an attorney, and had occasion to present the letter, a very interesting letter from a friend of his, identifying the prison camp, and the fact there was an infamous doctor who was at Auschwitz. They tend to corrobate one another.

So I would hope those Army documents would give us further information. Let me ask this one question, Mr. Posner.

Given your interest in this, in pursuing this for 4 years, and the work you have done, have you had occasion to meet with Mr. Sher of the OSI, and share with him your findings and information?

Mr. POSNER. I have not had, Senator.

Senator D'AMATO. Would that not be a good idea?

Mr. POSNER. Yes, I think it would be, Senator, and I realize that while the Office of Special Investigations is now conducting what appears to be a very broad investigation, I have assumed at one point they may actually—I have made requests for original documents from the Office of Special Investigations, but I have never had an opportunity to sit down and discuss information with them.

Senator D'AMATO. When working with the Weisenthal Center, we found that on modest requests for the release of information, we were put through the most incredible kinds of legal gymnastics. People had to get the release and declassification. The information was not only on the bottom of the list, it was buried, and I believe deliberately so. We finally came to a point of feeling that the only way to move this was by way of a lawsuit.

That lawsuit became public. Other people came forward. Then the Attorney General, to his credit, ordered this investigation.

I do believe that there is not that adversarial kind of relationship that may have existed within the agencies and departments.

I understand, and I think you would understand, as an attorney, that they probably may be somewhat reluctant, in terms of the release of information under the Freedom of Information Act, during this very sensitive period of time. It would be my suggestion that possibly you could arrange with Mr. Trott and OSI that opportunity for you to share with them the archives and the work that you have done. Possibly that can lead to much quicker results in eliminating certain possibilities, and pulling together others, because this is exactly the kind of thing it is going to take to bring Mengele to justice.

Mr. POSNER. Senator, I will be happy to take your advice on that, and I will do that, and I would like to comment, if I just might, on one of your statements.

Your lawsuit did disclose certain documents which were held back in the original Freedom of Information Act disclosures.

I believe, and I will present this subcommittee later with the Schwend documentation I have, and you will find in there significant portions blacked out. Although there is enough information which is available in print to tie Schwend directly into American

intelligence, the material that is blacked out may be the part relating to the Mengele connection, and I would suggest that this subcommittee use all of its authority and all of its power to attempt to have counterintelligence divulge the information which is now withheld.

Senator D'AMATO. I am convinced, given the new dimensions, the cooperation between CIA and others, which I do not think ever existed before this investigation was undertaken, that is exactly the kind of thing that OSI can be able to produce, where they can with the cooperation of CIA, begin to get some of that information.

So I would recommend that to you. I certainly do not want to impede this investigation, but would rather see that OSI is given every opportunity.

So where we might legally be able to make demands for certain documents, et cetera, I do not intend to do that, so we can give them that chance and that opportunity to really put the fruits of this investigation, and lots of information that has been developed, together. I think our basic purpose is to hunt him down and bring him to justice, and I think we can do that.

I thank you for coming in, and I certainly would commend you to pursue this with Mr. Trott, who is here.

Mr. POSNER. I will do so, Senator.

Senator SPECTER. Thank you very much, Mr. Posner. We appreciate your help.

I would like now to call Rabbi Morton Rosenthal and Mr. Elliot Welles, please.

Rabbi Morton M. Rosenthal is the director of the Latin American Affairs Department of the Anti-Defamation League of B'nai B'rith in New York. He has been a recognized activist in the struggle for human rights in Latin America.

Elliot Welles is the director of the Task Force on Nazi War Criminals, Anti-Defamation League of B'nai B'rith, and he is a Holocaust survivor. He serves on the advisory board of the U.S. Holocaust Commission and the New York City Holocaust Commission. They are being accompanied today by a good friend, David Brody of the Anti-Defamation League.

**STATEMENT OF A PANEL CONSISTING OF RABBI MORTON M. ROSENTHAL, DIRECTOR, LATIN AMERICAN AFFAIRS DEPARTMENT OF THE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH; ELLIOT WELLES, DIRECTOR, TASK FORCE ON NAZI WAR CRIMINALS, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH; AND DAVID BRODY, ANTI-DEFAMATION LEAGUE, NEW YORK**

Mr. BRODY. For the record, I would like to identify myself. I am David Brody, director of the Washington office of the Anti-Defamation League of B'nai B'rith.

I want to make one or two very brief comments. I know that you and Senator D'Amato have been commended on many an occasion for the strong commitment, dedication and interest you have both shown, not merely in the Mengele case, but in bringing out to the public the importance of our ferreting out Nazi war criminals in this country.

I say you cannot have been praised too often. I want to add the commendation and the deep appreciation of the Anti-Defamation League for the efforts of both of you gentlemen, and I must point out for the record with respect to Senator D'Amato, I am sure many people who come here to testify are not even aware of the fact that the Senator is not a member of the Judiciary Committee, but he has displayed such a strong, deep-seated commitment that he has taken time out from his other committee assignments, to join Senator Specter in being here this morning, and on prior occasions.

Senator SPECTER. You say Senator D'Amato is not a member of the Judiciary Committee?

Senator D'AMATO. They did not know, David. I just show up at the meetings regularly.

Senator SPECTER. We did not know that. [Laughter.]

Mr. BRODY. I will turn you over now to Rabbi Rosenthal.

Senator SPECTER. We welcome you, Rabbi, and Mr. Welles.

Your full statements will be made a part of the record, and we are running a little longer than we expected, so to the extent you can summarize, we will be grateful.

## STATEMENT OF RABBI MORTON M. ROSENTHAL

Rabbi ROSENTHAL. I will be brief. I appreciate the privilege of speaking here this morning with my colleague, Mr. Welles.

The quest for Dr. Mengele is particularly important, because this is the 40th anniversary year of the liberation of the concentration camps, and the Anti-Defamation League is convinced that the cooperation being extended to the Office of Special Investigations will make it possible, utilizing the full resources of our Government, to bring Mengele to justice.

We have been very pleased that the capture of Josef Mengele has become a national priority, and we are pleased to offer this committee our full cooperation.

Over the past number of years we have worked extensively, and with great efficiency in cooperation with the OSI. We think it important that the committee and others give consideration to two basic reasons that Josef Mengele has been a free man these many years.

We suggest that the first is that he has been protected by individuals and governments, and the second is that the world has been indifferent to him. Because of these two factors, principally, Mengele has often lived openly, using his own name for many years.

American intelligence officers in Argentina and Paraguay and other Latin American countries did not report to Washington on Mengele, we believe, because they were never asked to report on him, or any other Nazis. Therefore, even if an intelligence officer in the field had information on Nazi war criminals, it would simply not be forwarded to Washington, because headquarters was not interested. Presumably that may still be the situation, except for the case of Josef Mengele.

We ask why should it be so narrow a mandate? Why only Josef Mengele? As we mark the 40th anniversary of the liberation of the

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concentration camps, we call upon our Government to broaden the scope of its hunt for Nazi war criminals.

The notorious Mengele is an elusive target, but he is not the only Nazi war criminal living unhindered. Unlike Mengele, we know exactly where some of these other war criminals are, and we hold that the Government of the United States of America should persuade reluctant nations to rid themselves of Nazi war criminals, whom they have harbored for so long.

A case in point is Walter Kutschmann, an SS officer, who assassinated 20 Polish-Jewish academics and 18 of their family members in 1941. He is also responsible for the death of 1,500 other Jews in Poland.

Today the Anti-Defamation League is convinced that Walter Kutschmann is living safely in Argentina, as he has for almost 40 years, under the pseudonym "Pedro Ricardo Olmo." One year ago the Anti-Defamation League made available to Government officials in Argentina evidence by which they could prove the true identity of the man who passes as Pedro Ricardo Olmo. To date the Government of Argentina has not acted on the information we presented to them in April 1984.

Argentina's President, Raul Alfonsin, is visiting Washington this week. We would, therefore, like to take this opportunity to urge President Reagan and members of Congress to ask President Alfonsin to take whatever measures are necessary to bring Kutschmann to justice. We also hope our leaders will urge the Government of the Federal Republic of Germany officially to request Kutschmann's arrest and extradition there.

On this occasion we also ask President Reagan, President Alfonsin, and the leaders of all democratic governments to join in a great moral crusade to bring Nazi war criminals to justice. The hour may be late, but the moral demand for justice is unceasing.

Let no Nazi war criminal anywhere go to bed tonight without worrying that he may be brought to justice tomorrow.

Thank you very much, Senator.

[The prepared statement of Rabbi Rosenthal follows:]

## Prepared Statement of Rabbi Morton M. Rosenthal

Mr. Chairman, my name is Rabbi Morton M. Rosenthal, and I am the Director of the Latin American Affairs Department of the Anti-Defamation League of B'nai B'rith. I am joined today by my colleague Elliot Welles, the Director of ADL's Task Force on Nazi War Criminals.

It is a distinct honor for us to speak to this Committee today on behalf of the Anti-Defamation League, and we would like to take this opportunity to express our appreciation for the important work you are doing.

The apprehension of Josef Mengele is vitally important for a number of reasons. This year we reach the 40th anniversary of the conclusion of World War II, an occasion which will be marked with ceremonies throughout the world. It is a political, moral and legal outrage that Josef Mengele, the "Angel of Death," should still be at liberty when these ceremonies take place. He personifies the brutality, the horror, and the inhumanity of the Nazis. As the most notorious Nazi war criminal still at large, his continuing freedom is an affront to the memory of the six million Jews who perished in the Holocaust.

Josef Mengele's role in the Holocaust is a matter of public record. In recent weeks at a gathering in Israel, survivors of Auschwitz have relived and retold many painful memories of his grotesque experiments, his vicious perversions, his monumental cruelty. We now know that Mengele often sent people -- Jews -- to the death house, as one editorial recently put it, "with a slight gesture of his hand, a soft smile upon his lips." That editorial asked "Why insist on bringing Mengele to justice now?" It answered "lest we forget." His arrest would be a powerful lesson to those who wish to conceal or forget the Holocaust or those who do not know about it.

Since ADL's Task Force on Nazi War Criminals was founded in 1978, we have devoted a significant amount of time and energy to the international campaign to bring Nazi war criminals to justice. Last year, we were invited to go to Paraguay to look for Josef Mengele. We declined, because we knew that such an expedition would be futile. Instead, we met with key officials in the National Security Council and the Department of State to urge that the President of the United States put the powers of his office behind a concerted effort to locate Mengele. We remain convinced that with its vast resources, our government can help locate Mengele and assist in bringing him to justice.

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We are understandably very pleased that the capture of Mengele has become a national priority. The Administration's decision to wage an intense investigation into the whereabouts of Mengele, announced by then-Attorney General William French Smith on February 6, 1985 was heartening. We are also encouraged by assurances we have received from the Justice Department's Office of Special Investigations (OSI). We have worked and are continuing to work closely with OSI, and we understand that they have now been assured the full cooperation of all branches of the United States intelligence community. The work of this Committee is another indication that our nation has united in an effort to locate the "Angel of Death." We are pleased to offer you our full cooperation.

We think it important that consideration be given to two basic reasons Mengele has been a free man these many years. The first is that he has been protected by individuals and governments, and the second is that the world has been indifferent to him. Because of these factors, Mengele has lived openly, using his own name for many years.

When Mengele arrived in Buenos Aires in 1949 with Passport #100501 issued by the International Committee for the Red Cross, his passport bore the name Helmut Gregor. Emboldened by the protection offered in Argentina and the indifference of the rest of the world, Mengele decided to cast aside his false identity. In November 1956, he went to Argentine authorities with a copy of his birth certificate to request that his Argentine Identity Card #3940484, be changed to read Josef Mengele, born March 16, 1911 in Guenzberg, Germany. The Argentine Federal Police issued him a revised card, with the same number.

When he subsequently moved to Paraguay, Mengle again used his own name in securing Paraguayan citizenship. Mengele's Paraguayan Naturalization papers, copies of which are in ADL files, bear the name Jose Mengele. The document, No. 809, dated November 27, 1959, says that the fact of his becoming a naturalized citizen of Paraguay is to be placed on the public record and a copy of the document is to be sent to the Executive Branch.

American intelligence officers in Argentina, Paraguay and other Latin American countries did not report to Washington on Mengele, because they were never directed to report on Mengele or any other Nazis. Therefore, even if an intelligence officer did have information on a Nazi war criminal, it was simply not forwarded to Washington, because headquarters was not interested. Presumably that is still the situation, except for Mengele.

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We ask, why so narrow a mandate? Why only Mengele? As we mark the 40th anniversary of the liberation of the concentration camps, we call upon our government to broaden the scope of its hunt for Nazi war criminals.

The United States is the leader of the free world, and as such our country has a moral mandate to combat Nazism by identifying Nazi war criminals and, with the cooperation of other governments, bringing them to justice.

The notorious Josef Mengele is an elusive target, but he is not the only Nazi living unhindered by retributive justice. Unlike Mengele, we know exactly where some of these others are and we hold that the United States of America should persuade reluctant nations to rid themselves of the Nazi war criminals whom they have harbored for so long.

A case in point is Walter Kutschmann, an SS officer who assassinated twenty Polish Jewish academics and eighteen of their family members in 1941. After the Ukrainian workers dug their graves in the city of Lemberg they, too, were shot at Kutschmann's order. Kutschmann was also responsible for the death of 1,500 Jews in Bezazany and a large number of Jews in Podhayce, both in Poland.

Today, the Anti-Defamation League is convinced that Walter Kutschmann is living safely in Argentina under the pseudonym "Pedro Ricardo Olmo." One year ago, an ADL delegation led by National Director Nathan Perlmutter shared this conviction with Argentina's Foreign Minister and Interior Minister at a meeting in Buenos Aires, but Kutschmann remains at liberty.

At that time ADL provided Argentine authorities with a means of positively establishing that Olmo is Kutschmann. Our proof, including the attached SS document in his own hand, relates to a thigh wound which Kutschmann suffered during the war and a tattoo on the underside of his left arm. Nevertheless, Argentina's only action to date was a perfunctory 8-minute hearing in November 1983 during which a local judge, Judge Enrique Carlos Schlegel, asked Olmo if he was Kutschmann. Olmo denied it, and Judge Schlegel accepted Olmo's denial without considering any evidence. We do not feel this proceeding was an adequate response by the Argentine government.

Argentine's President, Raul Alfonsin, is visiting Washington this week. We would therefore like to take this opportunity to urge President Reagan and members of Congress to ask President Alfonsin to take whatever measures are necessary to bring Kutschmann to justice. We also hope our leaders will urge the government of the Federal Republic of Germany officially to request Kutschmann's arrest and extradition there.

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On this occasion we ask President Reagan, President Alfonsin and the leaders of all democratic governments to join in a great moral crusade to bring Nazi war criminals to justice. The hour may be late, but the moral demand for justice is unceasing.

Let no Nazi war criminal anywhere go to bed tonight without worrying that he may be brought to justice tomorrow.

Curriculum Vitae of Walter Kutschmann

[Submitted by Walter Kutschmann, in his own handwriting, for use by the SS personnel office]

(Translated from German)

I was born on May 24, 1914, the first child of the family named on the reverse side. [Kutschmann].

After attending public school for four years, I went to the gymnasium in Blankenburg/Harz. My special interests were foreign languages and Germanic studies.

I joined the Hitler Youth in 1929 and became active in the National Socialist party. As leader of the Blankenburg Hitler Youth I was instrumental in starting several groups in the Blankenburg area. I took an active part in all election struggles and participated in all marches of the organization. Consequently, at an early age, I became familiar with the dogma of the organization and was brought up in the tenets of their philosophy.

I was awarded the golden honor badge of the Hitler Youth, as well as the honor decorations of Braunschweig, in 1931.

Because of my father's death and the resulting financial situation of my family, I was forced to leave school. I enlisted as a volunteer in the army, where I served with artillery regiment 4 in Hallenstadt. In 1934 I volunteered for the Air Force and went to aviation school in Ludwigslust and from there joined the fighter squadron 153, in Nuremberg. While in the service I prepared myself, on my own, privately, for matriculation. When I finished my time in the service (I was discharged as a sergeant), I went for three months to the gymnasium in Halberstadt and graduated in February, 1938.

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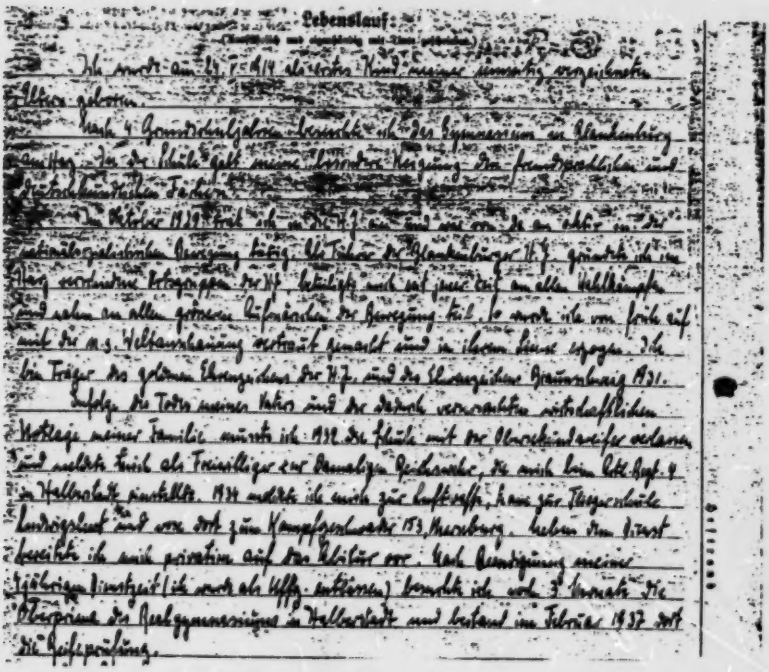
Following this, I went to Spain and participated with Franco's Morocco legion in the war there. I was discharged after receiving two bullet wounds in the upper thigh. After this, I was attached to the Consulate in Salamanca (German Consulate) as secretary in Cadiz. Through my employment as interpreter there, I came into contact with the Gestapo in Spain. I applied from there to serve in the Gestapo and was appointed as "Viriminalkommissar", on March 1, 1939, to the Gestapo in Leipzig. At the time, I took part in a course at the leadership school of the security police.

I am active in light athletics, have a certificate for swimming and I am trained in horseback riding. My 23-year-old brother is a lieutenant and a company commander in the field. My 27-year-old sister is a physical education teacher and is active as im BDM.

Kutschmann


Lebenslauf:

Ich wurde am [illegible] als erstes Kind meiner damaligen [illegible] Eltern geboren.

Nach 4 Grundschuljahren besuchte ich das Gymnasium in Glauchau. Auf der Schule galt meine [illegible] Neigung den fremdsprachlichen und naturwissenschaftlichen Fächern.

Im Oktober 1933 trat ich in die HJ ein und war von da ab aktiv in der nationalsozialistischen Bewegung tätig. Als Führer der Glauchauer HJ. gehörte ich zum Stab verschiedener Kreistage der HJ. teilweise auch auf gauebene und auf allen Kundgebungen und nahm an allen größeren Aufmärschen der Bewegung teil. So auch die von Fritz Sauckel mit der N.S. Volkswohlfahrt organisierte Gaukundgebung in Chemnitz anläßlich der Trägerverleihung des goldenen Ehrenzeichens der HJ. und des Ehrenzeichens Frontbann 1931.

Infolge des Todes meines Vaters und der damit verbundenen wirtschaftlichen Notlage meiner Familie mußte ich 1932 die Schule mit der Obersekundareife verlassen und meldete mich als Freiwilliger zur damaligen Reichswehr, die mich beim Art. Regt. 4 in Hellerstadt einstellte. 1934 meldete ich mich zur Luftwaffe, kam zur Flugzeugführer Landesgruppe und von dort zum Kampfgeschwader 153, Nürnberg. Neben dem Dienst betrieb ich mich privatim auch im Fliegen weiter. Nach Beendigung meiner [illegible] (ich wurde als Uffz. entlassen) bewarb ich mich 3 Monate als Oberpräsident des Arbeitsgaues in Hellerstadt und bestand im Februar 1937 die Hilfsprüfung.

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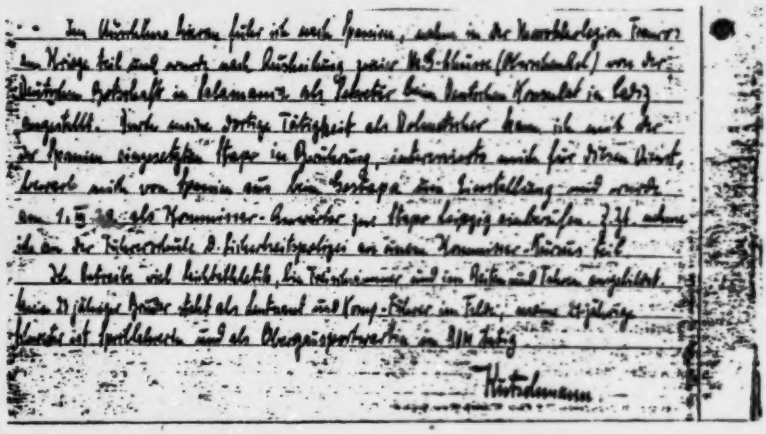

Senator SPECTER. Mr. Welles.

## STATEMENT OF ELLIOT WELLES

Mr. WELLES. I have no statement to make, but I will gladly answer your questions. I just want to add that I am very honored and proud, as a concentration camp survivor of 4½ years, to be here and to be able to testify, because the situation is so sad, when we are considering the situation of Josef Mengele.

I have German documents before me. Like my friend, Mr. Posner stated earlier, the International Red Cross issued him a passport, No. 100501, which bore the name Helmut Gregor. He came, in 1949, to Argentina, with identification card No. 3940484, and in November 1956 he brought his birth certificate to Argentine authorities, and changed it to his real name.

In the end of the fifties the Federal Republic of Germany had an order of arrest. Mengele was arrested in Buenos Aires. He was held for a short time, and then let go. He then escaped to Paraguay; going to Asuncion.

In Asuncion, he got Paraguayan citizenship, under the name Jose Mengele. In 1964, the Federal Republic of Germany requested his extradition. The President of Paraguay declared the German Ambassador from the Federal Republic of Germany persona non grata, and the German Ambassador had to leave Asuncion. Mengele was still there, and this was the greatest insult, I think.

We had Mengele right at our fingertips at that point.

Senator SPECTER. Mr. Welles, we have the background of your experiences in the concentration camps, but I think it would be worth a moment or two for you to put on the record you own personal experiences in the concentration camps.

Mr. WELLES. I am not a survivor of Auschwitz concentration camp. I was deported from Vienna, to the Riga ghetto. From Riga I went to Stutthof concentration camp, in August 1944.

Senator SPECTER. How old were you at that time?

Mr. WELLES. Fourteen. When I came to Stutthof concentration camp in August 1944, the flame of the crematorium was burning. There was only one crematorium. I was there from August 1944 to

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October of 1944. The flame of the crematorium was 6 to 8 foot high, burning day and night.

One day I had to walk behind the crematorium and unload boxcars, and in my hands I had the ashes and bones of human beings.

No one should ever say that human beings were not burned there, not at Stutthof concentration camp. From there I was transferred to Buchenwald, from which I later escaped, before the war ended.

Senator SPECTER. Rabbi Rosenthal, what response, if any, have you had from Argentinian authorities as to Walter Kutschmann?

Rabbi ROSENTHAL. Initially, no response, Senator.

Senator SPECTER. Any subsequently?

Rabbi ROSENTHAL. Some weeks ago they indicated there would be some movement.

Senator SPECTER. Specifically, what did they say?

Rabbi ROSENTHAL. That they would act upon the case.

Senator SPECTER. Who said that?

Rabbi ROSENTHAL. The Argentinian Ambassador, but I think any assurance should be viewed against the history of Argentina in relation to the treatment of Nazi war criminals.

Mr. Welles mentioned the Riga ghetto. Roschmann surfaced in Argentina in the 1970's. The Argentinian Government said he would be arrested then, said he would not be arrested; he was not arrested. He then disappeared, and a month later he turned up in a morgue in Asuncion, Paraguay.

The case of Kutschmann. He surfaced in 1975, but nothing happened. He surfaced again in 1983; nothing happened. So until the Government of Argentina officially acts on the information, the evidence which we have provided—I might state, although it is in my written testimony, that the evidence is the personal curriculu vitae of Kutschmann, written by Kuttschman in his own hand for the SS organization.

Until they act upon that, we do not think they are doing anything.

Senator SPECTER. Do you have any knowledge that President Alfonsin personally knows about the Kutschmann case?

Rabbi ROSENTHAL. About 2 weeks ago Nathan Perlmutter, National Director of the Anti-Defamation League, sent a cablegram to the President, with copies to the Foreign Minister, and to the Ambassador, asking the President to personally intervene, to insure that the action is taken.

Senator SPECTER. As to Walter Kutschmann, this subcommittee will press that issue. We will press that with the Department of State.

To the extent that you have specifics on other Nazi war criminals who are in Argentina, or elsewhere, we would like that information, documented to the extent that you have it, and we will press them on an individual basis, because I agree totally that to the extent we have evidence that Nazi war criminals are alive and being harbored in any foreign country, where there is documentation as to their complicity, that this Government, the U.S. Government, ought to push on a full court press for bringing them to justice and trial.

Rabbi ROSENTHAL. We are very pleased to have your assurances on this.

Senator SPECTER. Every one you have, however many they are, we will pursue and press.

Rabbi ROSENTHAL. We will, of course, submit evidence. One of the cases we have in mind is a gentleman—I should not call him a gentleman—a Nazi war criminal, who is protected by Syria.

But we would also like to stress the point that it might be appropriate, surely within the formal mandate of the United States, as a leader of the free world, to have its intelligence community reporting on the existence of other war criminals.

We will provide what we have, but we believe that the American Government has far greater capabilities, and I think that information is out there, and it can easily be obtained if the requests were made.

Senator SPECTER. I think that is something which ought to be pursued, as well. It is different to make a request to the American Government, or to the various agencies, identify all known Nazi war criminals, and specify what action you are taking to apprehend them, and to press them in whatever countries they are located in.

It is different to have documentation about a specific person, like Walter Kutschmann, and others, and to say here is tangible evidence, and what are you doing to bring this man to justice. So we would like to pursue it both ways.

Mr. Welles, you had a comment?

Mr. WELLES. I would like to bring up the case of Alois Brunner in Syria; he lives in Damascus. He was the righthand man of Adolf Eichmann. He was responsible for the death of over 600,000 Jews. He started out by murdering 60,000 Austrian Jews. He went to Czechoslovakia, Greece, Yougoslavia, and France, and he was responsible for all the transfers going to the East where Jews were shot in mass graves. Later on he was responsible for all transports going to Auschwitz, where the Yogoslavian, Greek, and French Jews lost their lives.

Alois Brunner was identified by an English journalist from the London Times, 2 years ago, living in Damascus, Syria. One year ago in Germany, I had a discussion with the Justice Minister of the Federal Republic of Germany, and was promised an extradition request would be made. Two months ago the German Government did make the extradition request to the Syrian Government, but the Syrian Government is absolutely hedging.

I also spoke to the Austrian Minister, Mr. Gratz. In September, in New York City, I had a lengthy discussion with him, because Alois Brunner is a citizen of Austria. He was in the Austrian SS, was in the Austrian Nazi Party, and as an Austrian, I thought that Austria should make a request for extradition.

But Austria so far has not publicly been forthcoming with any requests, whatsoever. So far, the only one that came out is the Federal Republic of Germany, and the Republic of Syria is absolutely refusing to extradite this mass murderer.

I think that all of these countries involved who participated in the loss of lives of citizens should join in a petition and the U.S.

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Government come forward, and Alois Brunner should be extradited and stand trial.

It is not so much a question of punishment. It is a question for historical purposes, what this man committed, and his misdeeds which he committed.

Senator SPECTER. Mr. Welles, I would agree with everything you have said, with the exception, perhaps of not being a matter for punishment. I think it is still a matter for punishment. When you deal with Syria, it is different from Argentina.

The Argentinian President will be at the White House now. President Assad of Syria does not have quite that relationship with the United States, so it is a different issue to try to get extradition from Syria.

I had an occasion to visit in Damascus, in Syria, and it is quite a different setting. But I think that it should not be necessary for the U.S. Government to declare war on Nazi war criminals. The war has been in process for 40 years. It is a matter of——

Mr. WELLES. I am quite aware. I also was in contact with Mr. Mendelsohn, when he had the Special Investigation Unit, when we started off in the beginning, and I am also in close contact with Mr. Sher, who asked me to hand over all the documents that I possess in regard to Josef Mengele.

I have a very good working relationship with the Office of Special Investigations. So, therefore, I think of every Nazi still alive—and that time is really short, from day to day. It is my thought that the tormented die before the tormentors, and this is the shame of the whole situation.

Senator SPECTER. This subcommittee will work with you on Kutschmann, the Syrian situation, and any others. You give us the specifics, and we will make the press.

Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Obviously you are aware of the newspaper accounts in which President Stroessner is telling reporters that Mengele died in 1976.

First of all, let me ask you, do you believe that, and second, do you believe Stroessner has been, and still is protecting Mengele?

Rabbi ROSENTHAL. Senator, I do not believe the statement that Mengele died in 1976. We do know that Josef Mengele enjoyed the protection of the Government of Paraguay. In our files, we have a copy of his citizenship papers in the name of Jose Mengele, so it is known generally that Mengele lived in Paraguay many years.

As to whether or not he is there at the present time, I have no hard information.

Senator D'AMATO. Let me ask you this. Having been there and studied this, what was the environment? What is the environment like in Paraguay, let us say, for Nazis?

Rabbi ROSENTHAL. If I may just broaden my answer, Senator, I think it should be understood that Latin America was seen by the Hitler government as a place to which excess-population could be sent, and a vast area from which they could draw both wealth, and industrial products, and farm products.

We have heard about the Andinia Plan, in which Argentine anti-Semites brought forth the libelous claim that the Jews intended to

establish a second Jewish state in Patagonia, the southern half of Argentina.

Actually, it was a Nazi plan to take over the southern half of Latin America; Chile, Uruguay, the southern half of Brazil, and Paraguay, to make that a Nazi domain. Many Nazis were sent down there, so there was an infrastructure. There are whole communities, farms, and even towns, which are only German speaking, even at this time.

So, it is not just Paraguay where there was that ideal environment, in which Nazis fleeing to Latin America were given jobs. They had associations, they had friendships and they had his protection.

Senator D'AMATO. Let me ask you, do you believe the Paraguayan authorities are likely to cooperate with an international search for Mengele?

Rabbi ROSENTHAL. If he is not there, I think they may well cooperate.

Senator D'AMATO. Very good. If he were located, my second question, in Paraguay, do you believe the Paraguayan authorities would cooperate, and would ultimately arrest him?

Rabbi ROSENTHAL. If the Government of the United States would use its full economic and political pressures, I think they would yield, or he might be killed, because it is my belief that when Nazis become inconvenient in Latin American countries, they suddenly die.

Senator D'AMATO. So as to protect the network, and those who have given them shelter, so they do not prove to be an embarrassment?

Rabbi ROSENTHAL. That is my belief.

Senator D'AMATO. I want to thank you. I think it is important that that last aspect be made public because of some of the information that we give to those charged with the responsibility of investigating, and undertaking this investigation, I would not be a bit surprised if we read of the sudden demise of Mengele.

Rabbi ROSENTHAL. I might point out I mentioned Roschmann having suddenly died. We know that last year, Walter Rauf became an embarrassment and died in Chile. I think it was not entirely explained. His death was unexpected in a medical sense.

Senator D'AMATO. Mr. Chairman, thank you very much.

Senator SPECTER. Senator D'Amato, on behalf of the subcommittee, we welcome you here, and thank you for your diligent efforts, and we are pleased to have you with us.

Rabbi Rosenthal and Mr. Welles, thank you very much for your continuing efforts, and for your cooperation with the Subcommittee.

Thank you, again, Mr. Brody. Thank you all very much.

[Whereupon, at 11:45 a.m., the subcommittee adjourned, subject to the call of the Chair.]

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# SEARCHING FOR DR. JOSEF MENGELE

FRIDAY, AUGUST 2, 1985

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.*

The committee met at 10 a.m., in room 226, Dirksen Senate Office Building, Hon. Strom Thurmond (chairman of the committee) presiding.

Present: Senators D'Amato and Simon.

Staff present: Michael Wooten, counsel, full committee; Neal Manne, chief counsel, Subcommittee on Juvenile Justice; Michael Gale, legislative assistant (Senator Specter); Tracy McGee, chief clerk, Subcommittee on Juvenile Justice; and Steve Ross, counsel (Senator Metzenbaum).

## OPENING STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA, CHAIRMAN, COMMITTEE ON THE JUDICIARY

The CHAIRMAN. The committee will come to order.

Today the committee will be looking into the issues surrounding the location and reported death of Dr. Josef Mengele, the notorious Nazi war criminal.

Josef Mengele has been the focus of perhaps the largest criminal manhunt of our time. Despite recent reports of his death, rumors persist as to his whereabouts. Alleged sightings in different countries have been the source of many worldwide investigations. While the accuracy of these stories and the veracity of some of the witnesses have been questioned, no one doubts the numerous accounts of the atrocities this man has committed against the men, women, and children in his charge. These are atrocities for which this villain should have been brought to justice.

The latest account of his demise prompted the Department of Justice and others to send experts to South America in an effort to confirm the report. This committee has several of these experts here today and will hear what they found as a result of their investigation.

In past hearings, the Subcommittee of Juvenile Justice of this Committee has also examined efforts by our Government to bring this criminal to justice and allegations that he escaped the custody of Allied authorities after World War II. The committee has Neal Sher, Director of the Office of Special Investigations at the Department of Justice, and Howard Safir, Associate Director of Operations for the U.S. Marshals Service appearing to tell the committee the status of their investigation. It is my hope that the testimo-



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ny we receive today will answer some of the many questions surrounding the notorious Dr. Mengele.

I welcome our witnesses and look forward to their testimony.

I want to thank all of you gentlemen for coming today. We appreciate your appearance. Before we call upon our first witnesses to testify, I think we will swear all of you at one time. Will you please stand and raise your right hands.

Do you all swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

[The witnesses answered in the affirmative.]

The CHAIRMAN. Mr. Neal M. Sher, Director of the Office of Special Investigations, Department of Justice, and Mr. Howard Safir, Associate Director of Operations, U.S. Marshals Service.

Our distinguished colleague, the Senator from New York, and other members of this committee may have an opening statement and if so, we would be pleased to hear from you at this time.

Senator Specter.

## OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Thank you very much, Mr. Chairman. Just a few words by way of an opening statement.

First, I thank you, Senator Thurmond, and commend you for convening this hearing. There has been widespread interest, international interest in the Mengele case for over 40 years now. And with the reports about the location of a body alleged to be that of Josef Mengele, it seems to many of us that a hearing would be important in order to have the evidence set forth in a public context.

The issues relating to Mengele were first brought into focus many months ago by our distinguished colleague, Senator Alfonse D'Amato from New York on an initiative under the Freedom of Information Act, and later by hearings held by the Juvenile Justice Subcommittee focusing on atrocities committed on twin children.

Following the extensive publicity, the Department of Justice launched an investigation. Hearings showed that Mengele had been in the custody of the Department of the Army which raised serious questions as to why Mengele was not brought to justice at a much earlier date, back as far as 1947, and important questions remained to be answered about the procedures used by the Department of the Army and by the U.S. Government generally in the treatment of Nazi war criminals in investigative efforts, and in efforts to track down these criminals to bring them to justice.

Even with the reputed death of Josef Mengele, there are other important chapters yet to be written about the securing of justice against the Nazi war criminals and vital factors have yet to be inquired into which the committee has the responsibilities in an oversight way over the Department of Justice to see what is being done by way of bringing those criminals to justice. But I believe that today's hearing is an important one to put on the public record and put before the Senate, the Congress, the Nation, and the world precisely what happened to the investigation and the scientific matters which relate to the identity of Mengele as the decedent here.

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I thank the chairman.

The CHAIRMAN. Thank you, Senator.

Senator D'Amato, we are happy to have you with us.

## STATEMENT OF HON. ALFONSE M. D'AMATO, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator D'AMATO. Thank you very much, Mr. Chairman.

Let me say I join with Senator Specter in thanking you for holding these hearings. Congress has adjourned but, yet, you have seen fit to make available this opportunity, an opportunity that is absolutely essential in regard to the Mengele matter.

Mr. Chairman, as Senator Specter has indicated, for far too long, it seemed that little, if anything, had been done in the pursuit of Josef Mengele. Certainly there was never a coordinated effort. Certainly there was not the kind of effort that we have seen this year that resulted not only in this hearing but in the so-called unearthing of Mengele. I have doubts with respect to whether it is or is not. There are certain questions that I think people generally have. What does the phrase "reasonable scientific certainty" mean? It is absolutely essential that we spell this out and that we have the experts who were on the scene to tell us what they mean by that.

I think it is a shame that we could not have brought Josef Mengele to trial, and give him his just punishment, if he has indeed escaped that punishment and is now no longer alive. But there are others, those who have granted him aid and sanctuary and there are his associates to pursue. And so this work must continue.

Mr. Chairman, it is most important that we do not allow time to deter us from pursuing those who have played one of the most sinister, diabolical roles in the history of mankind. The persecution of fellow human beings, the taking of life in such extraordinary quantities with callous disregard for basic principles of human decency, time should not blur. Nor should time deter us from bringing these people to justice and seeking them out.

So, Mr. Chairman, I give you my profound thanks and the thanks of many who understand the heavy demands on your time for taking of your time to call these hearings.

The CHAIRMAN. Thank you, Senator

We will now be pleased to hear from Mr. Sher.

## TESTIMONY OF NEAL M. SHER, DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS, DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. SHER. Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you this morning.

On February 6, 1985, the Attorney General directed the Criminal Division to conduct a thorough and complete investigation into matters involving Josef Mengele, the notorious "Angel of Death" at the Auschwitz concentration camp. The investigation has been conducted jointly by the Office of Special Investigations, OSI, and the U.S. Marshals Service. Officials of the U.S. Department of Justice received substantial assistance from many organizations within the U.S. Government and remained in constant contact with private individuals and entities involved in the effort to bring Mengele to justice. The U.S. Government's investigation was coordinated close-

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ly with the investigations conducted by the Governments of Israel and West Germany. Meetings to coordinate the international effort were held on February 25, 1985, and May 8, 1985.

On May 31, 1985, West German police searched the home of Hans Sedelmeier, who had been the general manager of the Mengele family business in Germany. That search led to other searches in the vicinity of Sao Paulo, Brazil, and resulted in the confiscation of documents and the exhumation of the grave in Sao Paulo, Brazil, on June 6, 1985. Representatives from the Office of Special Investigations and the Marshals Service immediately went to Brazil and arranged with Brazilian authorities for the participation of three medical experts and three document experts from the United States who had been selected by officials from the Marshals Service. These experts are the following:

Dr. Ali Z. Hameli, forensic pathologist, chief medical examiner, State of Delaware.

Dr. Ellis R. Kerley, forensic anthropologist, University of Maryland.

Mr. Antonio Cantu, paper and ink specialist, Federal Bureau of Investigation.

Dr. Lowell J. Levine, forensic odontologist, Huntington Station, Long Island, NY.

Mr. David Allan Crown, examiner of questioned documents, Fairfax, VA.

Mr. Gideon Epstein, examiner of questioned documents, U.S. Immigration and Naturalization Service.

On June 21, 1985, the three American medical experts, joined by three medical experts retained by the Simon Wiesenthal Center in Los Angeles, issued a preliminary report stating that it was their opinion that:

> The exhumed remains are definitely not those of Wolfgang Gerhard. It is further our opinion that this skeleton is that of Josef Mengele within a reasonable scientific certainty.

The document experts determined that documents seized in Sao Paulo were in fact written by Josef Mengele. Scientific experts from Brazil and West Germany concurred in these findings.

The Department of Justice accepts the conclusion by these scientific experts that, based on the information available in the forensic examination, the body recently exhumed in Brazil was that of Josef Mengele within a reasonable scientific certainty. Presently, we are awaiting receipt of final scientific reports from the experts.

The Office of Special Investigations, OSI, is continuing its investigation as to whether or not Josef Mengele was ever in United States custody or had any relationship with U.S. officials.

Information available at present suggests that Mengele was never knowingly interned by American authorities but might have been interned under a fictitious name after the war and released immediately. This information further indicates that he did not have an SS blood-type tattoo, as was common to SS personnel, and that he was garbed in a German Army uniform as opposed to a SS uniform. It is important to emphasize that this information is still subject to further investigation which we are expeditiously conducting. During the course of our inquiry, we have been searching

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archives throughout the world for pertinent information and have been interviewing relevant American military Government personnel—including foreign nationals who were employed by the American military—as well as American and foreign war crimes prosecutors and investigators. OSI has also contacted private groups which may have been interested in locating Mengele after the war. Other matters under investigation include allegations: That Mengele was interned at POW camp Idar-Oberstein immediately after the war; that American authorities believed Mengele to have been dead as of October 1946; and that Mengele was arrested in Vienna in 1947.

It should be noted that no document has been found to date which positively establishes American contact with Mengele. The 1947 report, issued by former U.S. Army CIC official Mr. B.J. Gorby, merely forwarded information which indicated that Mengele might have been arrested in Vienna. I have spoken at lengths with Mr. Gorby and OSI has pursued the assertions contained in his report regarding U.S. contacts with Mengele. There still has been no concrete proof uncovered that Mengele had been arrested after the war in Vienna as suggested in that report. It must be understood that the historical investigation being conducted by OSI is, without question, more complicated and time consuming than, for example, the OSI investigation into Klaus Barbie's relationship with the United States. In that case, documents directly demonstrating American contacts were quickly located and it was possible to focus on a relatively narrow range of archival material and individuals who likely were involved in the matter. We will, however, issue a report on the Mengele matter as soon as possible.

In connection with all aspects of this inquiry, both OSI and the Marshals Service received substantial assistance from the Federal Bureau of Investigation, the intelligence community, the Department of Defense, the State Department and other agencies. The Department of Justice also wishes to acknowledge specifically the efforts to the Department of Defense, and particularly the Secretary of the Army, John O. Marsh, Jr., who has organized a large and capable task force to assist in the location of archival documents on Mengele.

That is, sir, my prepared statement, and I would be, of course, happy to answer any questions the committee might have.

Thank you.

The CHAIRMAN. Mr. Safir, we will be pleased to hear from you.

### TESTIMONY OF HOWARD SAFIR, ASSOCIATE DIRECTOR FOR OPERATIONS, U.S. MARSHALS SERVICE, McLEAN, VA

Mr. SAFIR. Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you to testify about the U.S. Marshals Service involvement in the investigation relative to the whereabouts of Nazi war criminal Josef Mengele.

On February 6, 1985, Attorney General William French Smith ordered the Office of Special Investigations, OSI to conduct an extensive investigation into the whereabouts of Josef Mengele. On February 11, 1985, the U.S. Marshals Service was asked by the Department of Justice to investigate the whereabouts of Josef Mengele in coordination with OSI. The investigation was split into two

separate areas. OSI would have the primary responsibility for the historical investigation as to whether or not Mengele was even in U.S. custody after the war. The Service would have the primary responsibility for discovering the whereabouts of Mengele or proving that he had died.

Our first initiative was to learn as much about Josef Mengele as possible—his background, his family, and any other possible support mechanisms that existed. It was our theory that rather than immediately begin searching for Mengele in South America, that a careful and deliberate review of the German support mechanism would be the place to start. In February of this year, personnel of this Service proceeded to Frankfurt, Germany, and met with Mr. Hans-Eberhard Klein, the prosecutor responsible for the Mengele case. During these meetings, Mr. Klein provided the Service with 10 volumes—over 7,000 pages—of investigative documents containing information that had been compiled by the Germans on this investigation. These documents were immediately translated and analyzed by the Service.

During the same trip in February, the Service personnel proceeded to Vienna, Austria, and met with Simon Wiesenthal. Mr. Wiesenthal provided members of the Service and representatives of OSI with valuable information relative to the background of the Mengele case and valuable leads that should be followed up. Upon return to the United States, the Service contacted various Federal law enforcement agencies and members of the intelligence community asking them for various leads and information requests. We also dedicated a minicomputer which was programmed to catalog all investigative leads and information relative to Mengele. A task force of investigators was dedicated full time to this fugitive investigation. Based on the analysis and information provided by the Germans, Wiesenthal, and other sources, a list of family members, known associates, and friends who were believed to be in contact with Mengele was submitted to German authorities. One of the targets on this list was Hans Sedlemeier as well as Mengele's wife, Martha.

Our investigators traveled throughout the United States, Europe, and South America, tracking down leads and interviewing various sources who claimed to have information relative to Mengele's whereabouts. A historical review was done of all previous sightings and investigators followed up on the information contained therein. We also established close daily contact with the Simon Wiesenthal Institute in Los Angeles and various organizations that had offered large rewards for Mengele's whereabouts, including close cooperation and assistance from Mr. Arnaud de Borchgrave of the Washington Times who passed on all information available which was received by that publication.

In May of this year, we met in Frankfurt with representatives of the German and Israeli Governments involved in this investigation. As a result of that meeting, it was agreed that a three-country investigation into the whereabouts of Josef Mengele would be conducted with a free and open exchange of all investigative information. At that meeting, the German investigators indicated that they had applied for a search warrant of Hans Sedlemeier's residence and were hopeful that it would be executed in the near future.

On June 5, 1985, we were advised by German authorities that German investigators in conjunction with Brazilian authorities had located a body believed to be Josef Mengele. This body was to be exhumed the following day, and had been discovered as a result of information secured during the search of Sedlemeier's residence in Germany. We immediately dispatched a forensic team and two members of the Marshals Service Task Force to Sao Paulo and Brazilia to coordinate the United States' interest in this investigation.

Working closely with Dr. Romeu Tuma, Chief of the Federal Police for the State of Sao Paulo, we assembled the following team:

Dr. Ellis Kerley, Anthropologist; Dr. Lowell Levine, Forensic Orthodontist; Dr. Ali Hameli, Chief Medical Examiner, State of Delaware; Dr. David Crown, Handwriting Expert, Dr. Anthony Cantu, Handwriting Expert; Dr. Gideon Epstein, Handwriting Expert.

Working closely with Brazilian handwriting experts and forensic pathologists, this team carefully examined the remains of an individual who had been buried under the name of Wolfgang Gerhart.

On June 21, 1985, a collective preliminary report, concurred with by the Justice Department forensic team and the forensic team that had also been sent by the Simon Wiesenthal Institute in Los Angeles, was submitted to Dr. Tuma. This report stated that, within a reasonable scientific certainty, the skeletal remains of the body exhumed from the grave in Embu, Brazil, on June 6 were that of Josef Mengele. Earlier this month, I met with Dr. Romeu Tuma at my office at which time he delivered to me the Brazilian findings and a preliminary German report relative to a photo analysis technique which was utilized in identifying Mengele. I had also met in June with Simon Wiesenthal in New York and discussed this matter at some length. Mr. Wiesenthal is also convinced that the body discovered in Brazil is Josef Mengele.

Based on these findings and a careful review of documentary evidence available from the Brazilians, the Germans and the Israelis, this agency recommended to the Attorney General that the fugitive investigation as to the whereabouts of Josef Mengele be closed. This determination could not have been possible without the close cooperation of the Germans, the Israelis, the Brazilians, and Federal law enforcement and intelligence agencies in the United States.

Senator SPECTER [presiding]. Thank you, Mr. Safir.

Let us begin with you, Mr. Sher.

You believe that the corpse, the skeletal remains are those of Josef Mengele?

Mr. SHER. I do, certainly. My role in Brazil, along with the marshals, was to allow for participation by the U.S. experts, the people whose business it is to determine whether the remains belong to any particular individual, and their conclusion was one which the Department accepts. I think any questions about that should be addressed to them because they will be here, but they are obviously convinced and they are the experts in that field.

Senator SPECTER. Are you convinced?

Mr. SHER. I am convinced based on what they say, yes.

Senator SPECTER. How about you, Mr. Safir? Do you believe that these are the remains of Mengele?

Mr. SAFIR. I believe, based on the forensic information that I had an opportunity to review, both from the United States, the Ger-

mans and the Brazilians, the experts—and I am not an expert in pathology or forensics—believe it was in fact Mengele.

I believe as an investigator, based on the documents that I have reviewed, interviews and evidence that we gathered from the two countries, that it is pretty certain that the body is Josef Mengele based on the other information that we gathered under our investigation.

Senator SPECTER. Is there any doubt in your mind?

Mr. SAFIR. If there was any other fugitive investigation, I would never have any doubts. Nobody can ever be absolutely positive of anything. But if this were a fugitive investigation in the United States, I would have considered it closed, which I have considered this closed.

Senator SPECTER. Has the Department of Justice then closed its file on Mengele as a fugitive investigation?

Mr. SAFIR. We recommended to the Attorney General—we have been given no further instructions to investigate——

Senator SPECTER. You made the recommendation to the Attorney General, but has the Attorney General accepted the recommendation to close the file as a fugitive investigation?

Mr. SAFIR. To be exactly accurate, the file has been closed by the Marshals Service. We have received no additional requests from the Department. I would assume that that means that the Attorney General has accepted our recommendation.

As with any investigation, if new information were to appear-"closed" is a semantic word—if there were credible information, we would certainly pursue it. But the fact is I do not think that is going to happen.

Senator SPECTER. We will pursue obviously the scientific evidence from the experts, but let us proceed with an inquiry concerning the issue of pending prosecutions or possible prosecutions against others of aiding and abetting Mengele.

Mr. Sher, is there an investigation ongoing as to that issue at the present time?

Mr. SHER. Well, our investigation, as I indicated, is to determine whether or not there was any contact with the United States right after the war, while he was still in Europe, which was 1945 to 1949.

Senator SPECTER. Before we take that up, what lines of possible prosecution are there, if any? Whether there are United States prosecutions, German prosecutions, or whatever?

Mr. SHER. We know that the West German prosecutors have open investigations regarding obstruction of justice or harboring a fugitive, the details of which, I think, would not be appropriate to disclose. I think there are ongoing investigations in the Federal Republic of Germany, but I can tell you that we are interested in that, and Dr. Tuma in Brazil has stated publicly that he is looking into possible violations of law in his territory in Sao Paulo.

From the United States' perspective, if in fact somebody had improperly harbored Mengele or obstructed justice in some way from 1945 to 1949, I would assume the statute of limitations has long since run on any possible infractions in that period.

Senator SPECTER. So there are pending investigations by the Germans and Brazilians on the subjects of harboring a fugitive and obstruction of justice, but none by the United States authorities?

Mr. SHER. We have seen no indication in the United States that that is worthy of pursuing at this time.

Senator SPECTER. With respect to the activities of U.S. authorities, you testified, Mr. Sher, that Mengele was not knowingly interned, as you articulated. I am sure you are aware of the so-called Gorby letter, dated April 28, 1947.

Mr. SHER. I am very familiar with it, yes, sir.

Senator SPECTER. Which is a letter to the commanding officer reciting that information has been received that Mengele was at Auschwitz and had been arrested in Vienna. What investigation was undertaken to determine whether in fact Mengele had been arrested, as the information was reported in this 1947 letter?

Mr. SHER. That is a principal focus, one of the principal focuses of the historical investigation, as we have used that term.

I met at length with Mr. Gorby in Israel. Mr. Gorby does not have any independent recollection of his memo. He acknowledges signing it. But the information in the memo could have come to him in any number of ways. He stated with certainty that that was not an indication that Mengele had in fact been arrested; merely that somebody in his office had received information.

Senator SPECTER. Were you able to determine the identity of the commanding officer who received the letter?

Mr. SHER. Well, we have been trying to track this letter and we have been looking for commanding officers and subordinate officers that might—I think that letter would have gone to Frankfurt, according to Mr. Gorby, and passed on to Vienna.

We are trying to determine whether Vienna actually received it, but there are other avenues regarding the possibility of the 1947 arrest which we have been exploring.

We have been combing archives trying to get to the bottom of it. We have spoken to people in Germany, Israel and elsewhere as to who would have been the source of information that he had been arrested.

Senator SPECTER. What are the factors relating to that arrest?

Mr. SHER. There has been no conclusive proof that he had in fact been arrested. There had been stories circulated that he had been arrested, and the people who had been privy to that information have no specific recollection of Mengele having been arrested.

People, at that time, the documentation centers, private groups who were involved with war crimes prosecutors were looking for many war criminals. Mengele was one of them, although he was not at the top of the list. At that time, Adolf Eichman was being looked for by many people, and we have spoken to people who had been interested in finding war criminals, some who were interested in finding Mengele and others. No one has any recollection of Mengele having been arrested. And that is what makes this a very complicated and difficult investigation.

Senator SPECTER. Let me yield at this time to Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Sher, earlier this year, in Philadelphia you indicated publicly that you believed Mengele was still alive.

What led you to that conclusion at that time? What evidence?

Mr. SHER. Well, if I recall my testimony correctly, I was asked if I believed he was still alive. I said yes. We were operating on the

assumption that he was alive. We would not be looking for somebody if we thought he was dead.

As had been indicated, we were pursuing leads very vigorously, and if we had thought he was dead, we would not have put out that massive effort.

The West German authorities who had been at this for many years shared their information with us, as did the Israelis, as did private individuals such as Simon Wiesenthal. Everybody who was looking for Mengele assumed that he was alive; that was the basis for my statement.

Senator D'AMATO. Did you have occasion to review various documents from agencies, the Central Intelligence Agency, and others in regard to sightings of Mengele?

Mr. SHER. We had reviewed them. I am not familiar at this point with every bit of information. As Mr. Safir said, the manhunt, if you will, fell within his bailiwick and they had a whole room at the Marshals Office tracing the sightings. I had seen many of the reports and was aware of them.

Senator D'AMATO. Well, Mr. Safir, let me ask you this.

As it relates to reported activities that Dr. Mengele was associated with in Paraguay in the 1960's and early 1970s in drug trafficking, did you, in the course of your activities, pursue that information with respect to its credibility?

Mr. SAFIR. We did.

Let me first emphasize that the documents that you refer to, I have reviewed, from both the CIA, the DEA and the Customs Service. And basically what they consist of is raw intelligence, reports that were reported to various posts around the world, various sightings, and as I recall, very few of them had a credibility factor that was specifically given to them.

We followed up on those we could where there was something to follow up on, and could not verify any of those reports. And specifically we could not verify any involvement with Josef Mengele and drug trafficking.

Senator D'AMATO. Let me ask you. In the course of your investigation, there was a particular period of time, I think 1959, that Mengele appeared to be skiing in the Alps with his son.

Is that the time?

Mr. SAFIR. I do not specifically recall that. This is something that I believe came out after the discovery of the body, yes.

Senator D'AMATO. Has there been any verification? There seemed to have been no question at that time. Have you ever reviewed that, either Mr. Sher or Mr. Safir? Was that a fact, Josef Mengele in the Alps in 1959 skiing with his son?

Mr. SAFIR. We have not followed up on that.

Senator D'AMATO. Well, let me ask you this.

It was reported that the body that was found, reportedly Josef Mengele's, that he drowned in a swimming accident.

Have you made any investigation with respect to whether or not Dr. Mengele was a swimmer, whether he liked the water, whether he ever went swimming, whether he was noted for going swimming or not? Has anybody looked into that?

Mr. SAFIR. We have reviewed some of the Brazilian reports that indicated that he was fond of the beach, yes, we have.

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Senator D'AMATO. You did?

Mr. SAFIR. Yes.

Senator D'AMATO. You heard that he was fond of the beach.

Do you have any reports that indicate that?

Mr. SAFIR. Yes, we do.

Senator D'AMATO. Would you make those reports available to the committee?

Mr. SAFIR. I would be happy to.

[Held in subcommittee files.]

Senator D'AMATO. Because I would have to suggest to you that it has been reported to me that he had an abhorrence for the beach and was not noted to be a swimmer whatsoever. And all reasonable reports that have come from family and other sources indicate that. And so I would very much welcome that information.

With respect to the forensic reports and conclusions that come from the Brazilians and from the Germans and other authorities, you indicated that you had an opportunity to review those.

Is that accurate?

Mr. SAFIR. I have reviewed some of the preliminary reports of the Germans which they have asked me to hold privately and not publicly at this time.

Senator D'AMATO. That was my next question.

Mr. SAFIR. However, Senator, they have advised me that they would certainly permit me to let you or the Senate committee or the staff review these in executive session.

Senator D'AMATO. All right

I yield to the Chair. I think that would be an indispensable element so that the committee at the very least, and other interested people in the Congress might have that opportunity to review that information.

Thank you, Mr. Chairman.

Senator SPECTER. Senator Simon.

Senator SIMON. Thank you, Mr. Chairman.

One of the reasons for our questions is a feeling of frustration. Here is a man that committed unbelievable crimes, and yet received no punishment at all.

How many Nazi war criminals are we still pursuing, and are we pursuing the cause vigorously?

Mr. SHER. Senator Simon, the office that I am in has one mission, and one mission only, and that is to investigate and take appropriate legal action against Nazi persecutors in the United States. We have over 300 people under investigation. We have nearly 35 people in court right now in various stages of either denaturalization or deportation procedures. We have altogether commenced action against 50 people.

I can assure you that we are extremely active. We just filed two more cases last week against people in this country.

I understand the frustration that you and your colleagues feel. In fact, our office feels it immensely every day. Time is our big enemy as evidenced in the Josef Mengele matter.

The search for Nazi criminals did not begin with Mengele and it will not end with Mengele. There is a person in jail in California who was known as the Himmler of Croatia, responsible for thou-

sands of deaths in the position of a Nazi puppet state. He is in jail awaiting extradition to Yugoslavia.

There is a man in the United States awaiting extradition to the State of Israel. He was found to have run the gas chambers at the death camp at Treblinka where 900,000 Jews perished.

Are we pursuing those cases vigorously? The answer is yes. We are investigating—our office is busier now than we have ever been. We are investigating more people now than we ever have.

Not every Nazi criminal has been identified and prosecuted. That is a fact that applies to all law enforcement, not just Nazi criminals. But I think the U.S. Government has exerted over the last 6 years a very intensive effort.

It is fair to say that the Justice Department's efforts in this area are the most vigorous in the world. Absolutely. And we have been pursuing this with as great speed as possible, taking into account all the constitutional rights that these people have, rights of due process. These are very serious crimes that we allege, and we are very careful in our investigation to check evidence, to make sure that we have the right person. It is something that we have been pursuing for years, and we will continue.

Senator SIMON. The sentiment in Congress is that we must continue to pursue these investigations very, very vigorously.

You mentioned protecting the rights of the accused and due process in these trials. There are those saying that we are relying heavily on information gathered by the Soviets.

Now, since many Nazi crimes took place in Soviet held territory, do you find that the evidence shared by the Soviets is by and large solid evidence, evidence that has been gathered in the proper way?

Mr. SHER. Senator, we are mindful of the allegations leveled against us. The evidence we secure from all countries, including the Soviet Union, is checked and rechecked.

For instance, we have received original documents from the Soviet Union. Documents, by the way, have been checked and verified and authenticated by the very forensic experts that sit in this room today. And every expert, both Government and defense, have found that those documents were authentic. The arguments leveled against us are smoke screens trying to divert attention from the defendant's true activities. We are careful to corroborate the evidence, documentary and otherwise. The defendants themselves have authenticated evidence from both Eastern countries and Western countries, and I would also note that when we got into this business, we recognized immediately that the West Germans, who had been prosecuting war criminals for 25 years, have worked with the Soviets. Documents are found there and witnesses are found there. And we believe it is our obligation to pursue that evidence wherever it is.

In fact, the Soviets have presented evidence that has resulted in my closing many cases. We do not disclose who is under investigation, but I have closed many a case where Soviets have provided the evidence. And if anybody would have had evidence, it would have been the Soviets. And the Soviets said we know nothing, and we closed it out. So the short answer to the question is we endeavor to be as scrupulous as possible.

Courts have credited Soviet evidence time and time again. It has been fully admissible. And our experience with Soviet evidence has been the same as with other evidence. Courts have determined the authenticity of it time and time again.

Senator SIMON. Thank you, Mr. Chairman.

Senator SPECTER. Thank you, Mr. Simon.

Mr. Sher, you have articulated the intensity of the efforts at the time by OSI.

When did these efforts commence?

Mr. SHER. OSI was created in the spring-summer of 1979.

Senator SPECTER. And before 1979? Would you agree with the characterizations that U.S. efforts to track down Nazi war criminals prior to that time were very important, not really much effort at all?

Mr. SHER. I think there were people who were trying very hard. Unfortunately, they were few and far between. There was no staff or money, and without staff and money, you cannot do very much.

I think it was recognized that in order for the Government to be serious about this effort that it would need one office, an office which could consolidate and coordinate expertise rather than have U.S. attorneys sporadically file cases.

Senator SPECTER. Until OSI was set up then in 1979, there really was not any significant effort by the U.S. Government to track down Nazi war criminals?

Mr. SHER. There was a small office in the Immigration Service which again did not have the money or organization to pursue it. It was once OSI got started that the efforts became intensified.

Senator SPECTER. Was there any real effort in your judgment immediately after World War II to track down Nazi war criminals?

Mr. SHER. There is no question that right after World War II, there was an intensive effort.

Senator SPECTER. How long did that last?

Mr. SHER. Well, we occupied Germany several years after the war and even after the International Tribual at Nuremberg which tried the major war criminals, U.S. military court martial trials were conducted in the thousands and the Americans executed quite a few war criminals.

Senator SPECTER. How long did that effort last?

Mr. SHER. Four years, five years. I do not have the exact date in hand.

At that point, once the United States stopped occupying Germany, the effort was turned over to the Germans. Many people who have been convicted and sentenced to lengthy sentences have had sentences commuted.

Senator SPECTER. We commend what you were doing at the present time. But the thing that concerns many of us is from 1950 until 1979, a period of 30 years, the U.S. Government did virtually nothing to pursue this very important issue. That is not something that you can answer for.

Mr. SHER. Well, I can say, Senator, that if we had started earlier, hundreds of people would have been booted out of the United States. We have reviewed cases only to find out that the person had died 5 years before, and there is no question that the passage

of time has inured to the benefit of Nazi war criminals who had no business being in the United States.

Senator SPECTER. That is a black chapter of U.S. law enforcement, and I think it should be publicly acknowledged that from 1949 to 1979, as you have just testified, about 30 years, except for sporadic efforts by U.S. attorneys on specific occasions, or except for the small unit which you have described in Immigration, there was no serious or sincere effort by the Government of the United States to track down Nazi war criminals. And they have had them in the United States of America where the Government should have been pursuing a vigorous program and prosecution of some of the worst criminals in the history of the world.

Mr. SHER. There is nothing I can disagree with, sir.

Senator SPECTER. Let us go back.

Mr. William Tuck, an ex merchant marine seaman, who came to the Juvenile Justice Subcommittee, testified that he worked on a ship and went to Argentina in the 1940's, and believed that Mengele was a passenger.

Was that matter investigated?

Mr. SAFIR. Maybe that comes——

Mr. SHER. Representatives spoke with Mr. Tuck from Baltimore, I believe.

Senator SPECTER. Was there any substance to what Mr. Tuck had to say?

Mr. SHER. We pursued it, and we frankly did not think it was worthy of much further pursuit.

Senator SPECTER. How about the claim made by Mr. Walter Kempler, an individual that Senator D'Amato and I talked to in Los Angeles concerning his recollection of seeing Dr. Mengele in a U.S. prisoner of war camp shortly after the war?

Mr. SHER. We have been checking out the allegations concerning Idar-Oberstein. That was not necessarily a place where they kept war criminals. It was a POW camp.

On the list we have not found Mengele having been listed.

Senator SPECTER. Well, what Mr. Kempler had to say was that he heard conversations identifying Mengele as an atrocious war criminal so that even though it may have been just a POW camp, according to Mr. Kempler there was indicators that Mengele was in custody and he was a bigshot leading to the inference that anybody who was half alert would have pursued Mengele at that time.

Mr. SHER. I think, after speaking with these individuals, I think in large measure they were talking about stories about someone being in custody who had been engaged in the diabolical experiments at the camp.

Whether or not they were talking about Mengele was problemmatical. This is a case where we would like to find the documents because, as we all know, memories blur, these are emotional matters. And I mentioned the Army has put together a crackerjack team so we can exploit their archives, and we found nothing to confirm the Idar-Oberstein story.

Senator SPECTER. You should have started your investigation 30 years sooner.

Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Chairman, one of the things that frustrates this Senator is that it seems that there was a well-established body of opinion, experts at the Wiesenthal Center and, indeed, people at OSI, with very strong beliefs that Mengele was alive.

There were various sightings. It was trail and trail, I believe, that clearly established in 1959 he is pictured in the Alps with his son, who now comes forward and testifies or gives evidence that indeed this was his first occasion in meeting his father and that his father was introduced to him, I believe, at that time as his uncle.

Do you have any information that substantiates this?

Mr. SHER. All of this came up after the exhumation in Brazil when the documents were uncovered and diaries were reviewed. This is stuff that has been printed in a magazine, and some Italian magazine picked it up as well.

Senator D'AMATO. My question is, have you reviewed those materials with respect—or those statements made by Mengele's son, who is an attorney now in West Germany, with respect to the authenticity? Certainly the picture is used as establishing Mengele.

Is that accurate or is it inaccurate? Was that indeed Josef Mengele in the Alps in 1959, and was that his son? He says it was him. Have we looked into that?

Mr. SHER. We have been reviewing material that the son turned it over to the magazine. It is not in our possession. People have looked at it. People are looking at it as we speak today.

Senator D'AMATO. I would suggest that the case not be closed. I suggest that maybe in the future it might be closed, but I think there is some relevance that in 1959 he was supposed to be in the Alps, and we should know whether it was or was not him in fact. I have every reason to believe that it was, and I am asking you: Have we ascertained that, and if we are talking about putting together the case with respect to historical significance and those who may have aided and abetted in his escape from justice, the trail becomes important. And so that would be something you obviously would continue, would you not, Mr. Safir?

Mr. SAFIR. Senator, if I may, perhaps this is confusing. What I stated was the fugitive investigation relative to where Mengele physically is has been closed. As far as I know, Mr. Sher's office is going to continue the historical investigation as to what Mengele did.

Senator D'AMATO. Let us go to the historical investigation.

Have we at this point in time established whether or not that was Josef Mengele in the Alps in 1959, viewed in a picture of him skiing with a young man who is reportedly his son, who says, yes, that is someone who was identified initially as his uncle?

Thereafter, he found out it was his father, Josef Mengele.

Mr. SHER. We are reviewing the materials that are in Germany now. We have people in Germany who are looking at that. Whether we specifically took the photographs and scientifically analyzed them, it is not in our possession. It is certainly the son. I have no doubt that is the son.

Senator D'AMATO. And do we have reason to believe that that person there was in fact Josef Mengele? In terms of all the experts that you have talked to, and people that have come forward, do they say that is Mengele?

Mr. SHER. The person photographed with him is obviously the person that came out of Brazil and Germany.

Senator D'AMATO. I just want to establish if that was the case. Do we know that that was him? Let me tell you this. If we do not know if this was him, then I will be darned if we can say that this is him at this one time, the remains. If we do not know whether or not that is him in 1959, then we are in deep trouble as to ascertaining, that it is Mengele.

All we are asking you is if that was indeed Mengele in 1959.

Mr. SHER. The Brazilians have conducted exhaustive examinations in this, and they have stated it. They have analyzed it.

Senator D'AMATO. Have you reviewed that?

Mr. SHER. I do not have any of their reports.

Senator D'AMATO. Mr Safir, have you reviewed those materials?

Mr. SAFIR. I have reviewed a portion of the material. My staff has reviewed the rest.

In answer to your specific question, I do not know the answer to whether or not we have with absolute certainty scientifically determined that that was Mengele. The Germans believe it; the Brazilians believe it. And based on the information that we have received, we believe it.

Senator D'AMATO. Are you preparing parallel reports? I understand the information that has been given to you by West Germans and others, they have asked that you not make this public per se, that you use it in official circles. But are you preparing a report based on that?

Mr. SAFIR. Yes.

Senator D'AMATO. And that obviously will be made an official report at some point in time?

Mr. SAFIR. Dr. Tuma delivered to me a great deal of material a few weeks ago. The Germans have been providing us and are continuing to provide us with a significant amount of material. We will, in conjunction with OSI, prepare a final report and present it.

Senator D'AMATO. Let me ask about Dr. Tuma.

Dr. Tuma, is he a medical doctor?

Mr. SAFIR. No.

Senator D'AMATO. What does that doctor represent?

Mr. SHER. He is an attorney.

Senator D'AMATO. And he is the chief of police?

Mr. SHER. He is the chief of police for Sao Paulo.

Senator D'AMATO. He is the fellow who had the skull up there?

Mr. SHER. No.

Senator D'AMATO. That was not Dr. Tuma?

Mr. SHER. No.

Senator D'AMATO. Who was that?

Mr. SAFIR. Dr. Mello.

Senator D'AMATO. Is he a doctor?

Mr. SAFIR. As far as I know, yes.

Senator D'AMATO. He is a bona fide doctor?

Mr. SAFIR. I have not seen his credentials but, yes, he is.

Senator D'AMATO. That was the most unusual exhumation I have ever seen, not that I go around viewing exhumations.

We will ask the medical experts about that.

My point is that in 1959 we see Josef Mengele skiing with his son, Rolf. I find it rather difficult to believe that we then find a hermit 2 years later, in 1961, living on what has been described to us in Brazil. That is just—and I would hope that we would have enough evidentiary materials that the Brazilians and others have gathered to give some substance and credence to this. And that is why I remain somewhat skeptical, and that is why I asked that question.

If indeed we have him in rather affluent circumstances in 1959, skiing in the Alps, is it credible to believe that in the next picture we see what emerges from letters, et cetera, over the years, that we find Mengele in Brazil, in this place that has been described as almost hermit-like conditions.

Mr. Chairman, I do have these questions, and I think reasonable people may also ask these questions. And I thank the Chair for your indulgence.

Senator SPECTER. Thank you very much, Senator D'Amato.

We would now like to turn to the next panel.

Thank you both very much.

We are going to have to move along because we are going to have to conclude the hearing by noontime.

I would like now to call Dr. Lowell Levine, forensic odontologist, of Long Island, NY, and he is accompanied by Dr. Ali Z. Hameli, forensic pathologist, chief medical examiner, State of Delaware, and Dr. Ellis Kerley, forensic anthropologist of the University of Maryland; David Allan Crown, examiner of questioned documents, Fairfax, VA, accompanied by Antonio Cantu, paper and ink specialist, Federal Bureau of Investigation, and Gideon Epstein, Examiner of Questioned Documents, U.S. Immigration and Naturalization Service; and Dr. Leslie Lukash, chief medical examiner of Nassau County, NY, appearing on behalf of the Simon Wiesenthal Center.

Senator SPECTER. Dr. Levine, let us begin with you, and would you first introduce and identify those experts who are accompanying you, please?

**TESTIMONY OF PANEL CONSISTING OF DR. LOWELL LEVINE, FORENSIC ODONTOLOGIST, LONG ISLAND, NY, ACCOMPANIED BY DR. ALI Z. HAMELI, FORENSIC PATHOLOGIST, CHIEF MEDICAL EXAMINER, STATE OF DELAWARE, AND DR. ELLIS KERLEY, FORENSIC ANTHROPOLOGIST, UNIVERSITY OF MARYLAND; DAVID ALLAN CROWN, EXAMINER OF QUESTIONED DOCUMENTS, FAIRFAX, VA, ACCOMPANIED BY ANTONIO CANTU, PAPER AND INK SPECIALIST, FEDERAL BUREAU OF INVESTIGATION, AND GIDEON EPSTEIN, EXAMINER OF QUESTIONED DOCUMENTS, U.S. IMMIGRATION AND NATURALIZATION SERVICE; AND DR. LESLIE LUKASH, CHIEF MEDICAL EXAMINER OF NASSAU COUNTY, NY, APPEARING ON BEHALF OF THE SIMON WIESENTHAL CENTER**

Dr. LEVINE. Yes, sir.

Thank you all very much for allowing us to testify, Mr. Chairman, Senator D'Amato.

With me is Dr. Ali Z. Hameli, forensic pathologist, chief medical examiner of the State of Delaware, and Dr. Ellis Kerley, forensic anthropologist of the University of Maryland.

And I think from some of the questions asked, I would diverge just a little bit to go to their experience and mine.

Dr. Kerley is a forensic anthropologist. He is a past vice president of every scientific organization he has belonged to. He was involved in the identification of Korean war dead, airplane crashes and, most recently, the victims of the abortive raid into Iran, among other things.

Dr. Hameli has been the chief medical examiner for the State of Delaware for 22 years, and I might say that Dr. Hameli and I over those years have worked on more difficult identification problems than Mengele.

I am currently the coordinator of the forensics of the State police and consultant to the Nassau County Medical Examiner's office, and I have worked on such things as the John F. Kennedy investigation, and I was responsible for authenticating the skull x rays. And Dr. Cantu worked on that investigation too. Numerous aircraft accidents, and probably have been involved in the identification of thousands.

Collectively among the three of us alone, I would say we have identified many, many thousands. We were brought into this case as consultants of the U.S. Marshals Service and the Office of Special Investigation of the Department of Justice. And we only had three missions. One was to aid the Brazilian Government in any way they would like. And two was to tell the Justice Department, the Marshals Service whether it could be determined whether it in fact is or it is not Mengele, or it cannot be determined whether these remains are or are not Mengele, and finally to produce a scientific report which we will be doing.

Dr. Hameli is the coordinator of that, and we intend to produce a report with all our findings.

Dr. Tuma, in our opinion, ran an excellent investigation, and with us he was extremely cooperative. He produced any and all evidence that we wished to see, including clothing buried with the remains, medications, things seized from the house, and witnesses such as Mrs. Stahmer. And in addition to that, I will hold these up carefully, we have, we had a press conference which you say, but prior to that there was a conference of all the groups involved in this, of the West Germans, the Americans, the Israelis, representatives of the entire groups in his office that went on for 3 hours. Everybody presented all the evidence that they had found to this group.

In the end, he asked three times if anybody had any reservations, would they please stand. And nobody did. None of the experts there did.

The facilities at the institute of legal medicine that we worked at were excellent. The first exhumation that they did obviously, as Senator D'Amato commented, was forensically a disaster, or appeared to be a disaster I should say. In fact, they went back and did a second exhumation in which they recovered four teeth that had been lost in the original exhumation and many of the small

bones of the hands and feet that had been found in the original exhumation, and also I have got the reconstructed skull here.

I can also say that our investigation was not compromised at all by the first exhumation. The media was helpful to us in that we were able to review tapes of the entire exhumation, both the first and the second, to see what was done to reconstruct things. We had good consultants.

For example, in this area is a natural fistula. Of all things, the Counsel General to the United States in Sao Paulo is an oral pathologist, and he acted as a consultant to us in this unusual pathology. And, finally, this is the report that everybody has alluded to. Let me say that we all collectively utilized the terminology that we are familiar with in American courts of reasonable scientific certainty. That is our standard, and those are the reasons. And one of the reasons why we used it.

Rather than saying anything else, Dr. Hameli has voluminous photographs and evidence, and he will answer some of the questions you have already asked, as has Dr. Kerley. And so I think it might be more productive to try to answer questions.

Senator SPECTER. Let us turn now to our second witness then, David Crown, examiner of questioned documents, Fairfax, VA. And, Mr. Crown, would you begin by introducing those who are accompanying you and stating your own credentials, please?

## TESTIMONY OF DAVID ALLAN CROWN

Mr. CROWN. Yes.

Mr. Gideon Epstein on my right, and Mr. Cantu down at the end of the table there.

My qualifications in questioned documents go back 30 years. My doctorate is in criminology from the University of California. I retired 3 years ago as Chief of the Questioned Documents Laboratory of the CIA. Prior to that, I was with the Postal Service in San Francisco. I was assistant director when I left their laboratory. And over the years I have been teaching forensic science and questioned documents. That includes Georgetown, GW University, and Antioch School of Law.

I have published books and articles over the years. I have been president of the American Academy of Forensic Sciences, president of the American Society of Questioned Documents Examiners, a list of other offices, and I have testified throughout the United States in Federal, State, and local court, before Congress, and on behalf of the CIA and the State Department. I have testified or made presentations on document matters to U.S. officials and foreign officials over the years.

Those, of course, were classified matters.

Senator SPECTER. Would you tell us what your findings were in this matter?

Mr. CROWN. We had 14 groups of documents to look at. These ranged anywhere from a slip of paper to 10-page documents. Of the 14 documents or units, 12 were written by Mengele; two were not. There was also some typewriting on one of the documents, and two typewriters were brought in from the Bossert home. And we were able to state definitely that the typewriting on one of the docu-

ments was not typed on either of the two typewriters in the Bossert home.

For the 12 documents that we did identify, it was a definite identification. There was no reason to qualify our conclusions, and we did not. In this case we made independent examinations, and after we had made an independent examination and reached a definite conclusion, we compared the results. We agreed completely.

Senator SPECTER. That is the essence of your finding?

Mr. CROWN. Yes, sir.

Senator SPECTER. Let us turn now to Dr. Lukash, chief medical examiner of Nassau County. And I understand, Dr. Lukash, you are also appearing here on behalf of the Simon Wiesenthal Center.

## TESTIMONY OF DR. LESLIE LUKASH

Dr. LUKASH. Yes, sir.

I am a forensic pathologist, and I have been for many years deeply committed to the forensic field. I have been chief medical examiner for 30 years and with the medical examiner's office for 35 years.

On June 6, 1985, at approximately 9:30 a.m., I got a call from Mr. D'Amato's office expressing deep concern over the fact that there is an alleged body in the ground in Brazil said to be that of Josef Mengele. I was asked if I would go down immediately, and I said I would go down only if I went down with a team. And at that time I submitted four names, including myself, Dr. Clyde Snow, who is a forensic anthropologist, and Dr. John Fitzpatrick who is a forensic radiologist. I was advised that our names would be submitted to the Justice Department for clearance to go to Brazil.

That afternoon, on television, the spectacle of the exhumation was apparent, and greater concern was demonstrated by the Senator's office. And on Sunday of that weekend, we made a commitment; that is, myself and Dr. Snow and Dr. Fitzpatrick, to go down with the Wiesenthal Foundation people, because they had advised us that they would pick up our travel expenses, our hotel bill. And incidentally we were not compensated for any of our time that we spent down there. We made a moral commitment to Rabbi Cooper in California. It was not until Tuesday that the Justice Department called Dr. Levine, whose name was submitted by me, and he consented to go down to Brazil for the Justice Department.

I got a call from Mr. Sher on Wednesday, and I told him that I had already made a moral commitment to the Wiesenthal Foundation and likewise Dr. Snow and Dr. Fitzpatrick. So you can see the genesis of this and the evolution of two teams, one by the Wiesenthal Foundation and one by the Justice Department.

We arrived. Dr. Snow, myself and Dr. Fitzpatrick arrived there on Saturday morning with the able assistance of the American Association of the Advancement of Sciences. And we particitated in the investigation jointly with the Justice Department group. We examined—our team examined the skeletal remains, their team examined skeletal remains, and we came up with a joint statement concerning our final disposition—our final disposition of our findings in this matter. And as you know, and is publicly known, we feel that Josef Mengele was interred in Embu, Brazil, in the name

of Wolfgang Gerhard, and that this opinion is based upon a reasonable scientific certainty. Our conclusions were drawn from the anthropological examination, the dental examination, the x rays of the skeleton, some historic information that was presented in the fractured pelvis which may be causally related to the motorcycle injury of 1943.

The remarkable photo skull, facing position, superimpositioned by the West Germans, was a very positive finding. The handwriting experts were positive in their determination. The photographic analysis by the West Germans on comparisons of photos taken by Mr. Bosserts of aging Josef Mengele with those on file, and given all that with the historical information and the circumstances presented by the Brazilian authorities, and the interrogation of the Stahmers, and Mrs. Stahmer's friends, and friends of Josef Mengele from 1959 was the reason for my conclusion in conjunction with my colleagues that this was within a reasonable scientific certainty.

So I have no problem with it, Senators, that Josef Mengele lived and died in Sao Paulo, Brazil.

I would just like to voice at this time a feeling that I have concerning the ambience of this whole affair and that I feel very sincerely that justice, like many others, that justice has been denied the opportunity of confirming Josef Mengele for his heinous crimes perpetrated at concentration camps.

The death of Josef Mengele should not rank as the final chapter of the Holocaust. I feel that way. I am sure that there are hundreds of millions of people who share in this same feeling, and I respectfully submit to you, Senators, and to your body this is my expression, that one cannot erase from the mind this horrendous deed, this horrendous thing that was perpetrated by the Germans in 1939 to 1945. But I feel very strongly that an annual day of remembrance, just an annual day of remembrance for those lives that were lost during the Holocaust would be a gracious way to say that we remember that horrendous time. It would not be asking too much for the schools to include in their curriculum some of the historical events of this Holocaust.

And also I am firm in my belief that there should be a rededication, even though I heard Mr. Sher and the marshals group talking, and I can only feel that a lot of time went by the board from 1949 to 1979, that there should be a rededication to seek out and bring to justice other associates and accomplices of Josef Mengele.

Thank you very much.

Senator SPECTER. Thank you, Dr. Lukash.

The concerns which many of us have about the authenticity of the remains discovered in Brazil being Mengele's remains turn on the very clever diabolical way that he not only functioned as a Nazi war criminal, but the way he eluded authorities for decades. One of the concerns which I have is the evidentiary base for your coming to your conclusions with reasonable scientific certainty is how much of it is based upon tangible physical evidence of the skeleton and the skull as opposed to what has been described as circumstantial evidence or handwriting or photographs.

It is not beyond the realm of belief that a man like Mengele could reconstruct all of that. We do not have the witness, the



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woman who has been widely quoted. We do not have her here. We have not seen her. But all that could be a plant. The photographs could have come from some other time and some other place, and the handwriting could have as well.

The question that I would like to burrow into, Dr. Lukash, starting with you, is how much of the evidence is based, how much of your conclusion on reasonable scientific certainty on the hard evidence of the dental work, the skeleton, the fractured pelvis, the tangible physical evidence at hand which you have examined. And your credentials are impeccable I think, that we are all extremely well served by an extraordinarily talented array of experts here.

The question I want to have an answer to is how much do you base your conclusions on of the materials which you actually saw in abundance?

Dr. LUKASH. Senator, before I answer your question, I must state that a forensic examination, a forensic determination depends upon a correlation of both circumstantial, historical, and the physical evidence and pathological evidence that one has. The correlation that one can arrive at a reasonable certainty.

Now, in this situation, there is no doubt that diabolical would be an understatement. Whether the authorities were looking that hard for him, or he eluded the authorities, is a question of opinion. But let us say he eluded the authorities with aliases and with the protection by the enclave, the German enclave where he lived.

Senator SPECTER. Dr. Lukash, what is there in the skeletal remains that indicates to you or proves to you that that is Mengele?

Dr. LUKASH. A combination. And I will not speak for the anthropologists or the dentists. I did see their work, and I have seen their reports. A combination of the anthropological, the odontological, the photo skull in position in and of itself when you take one consistency and one consistency and one high probability, you are going to come down with higher probabilities.

Senator SPECTER. Coming back to my question, what is there about the skeleton that tells you it is Mengele?

Dr. LUKASH. Well, I would refer that aspect to Dr. Kerley. Dr. Snow is not here. Dr. Kerley is an eminent forensic anthropologist and would be able to answer that question.

Senator SPECTER. Let me come back to Dr. Levine for just a minute.

On the spectacle of the exhumation, you have testified that it did not cause you any problem in the reconstruction, and they went back after the first exhumation and found more parts of the body.

It seems to me an incredible sequence that they could not even remove all the parts of the remains in taking away the remains. How can it be that with all of the theatrics and the procedures used, that there was no harm at all done to the ensuing investigation and examination you rendered?

Dr. LEVINE. Let me say this. An identification is a comparison of a known with an unknown. The things—the only thing that ended up missing in the end were some small hand and foot bones. All the teeth were found. The skull, which had been fractured, as you can see, sitting in a ring, was very painstakingly glued back together like a holographic jigsaw puzzle by the German anthropologists.

Senator SPECTER. But your ability to reconstruct it depends upon the condition of it when you find it, and if it had been carefully removed from its location, it would obviously be easier to reconstruct or, more accurately, reconstructed.

If you have it together, you do not have to reconstruct it. Once you have to reconstruct it, then you have to make assumptions as you put it back together.

Dr. LEVINE. No, sir, you do not have to make assumptions with all due respect.

Senator SPECTER. Answer the question, and then we will turn to Mr. D'Amato.

Dr. LEVINE. You do not have to make assumptions. I am told your background is in law enforcement as a prosecutor. Just as you put things back together, such as glass, you can do that with bones also.

Senator SPECTER. Whenever I would find someone who had visited the scene of the crime and messed it up, it made prosecution's job much more difficult.

You are involved in guess work concerning what occurred there prior to the arrival of the experts. And cases are lost in courtrooms because the chain of evidence is destroyed, or the authenticity of the crime scene is not——

Dr. LEVINE. That is not the case here.

Once again, the bones fit precisely back together. I am not condoning the exhumation procedure. This occurs in the United States many, many times too. But, for example, Dr. Hameli, do you have that photograph of the hard palate?

Josef Mengele, as everybody remembers from the photograph, has two very widely spaced incisor teeth about here [indicating]. We have an x ray film. This is the panoramic x ray film that was taken, and you can see he has got a hugely wide incisor canal, and almost a non-union of the two halves of the hard palate.

To prove that this was not artifact from the exhumation, he is also wearing—the skull had a chrome cobalt upper partial denture which is a very precision type of thing that will only fit one person. And we can show all the precise areas that have been prepared in the seat, and could put the hard palate back into that template where it really was.

Senator SPECTER. Let us assume that you have it all put back together properly.

What is there about that skull, those dental works, that led you to conclude that it was Mengele?

Dr. LEVINE. Everything is consistent in this way. The widely spaced teeth, which we can prove would have occurred in life. We have the original SS dental record that showed that all his back molars have fillings in them. He has got three back molars which remain. All of those are filled, two of which, in a way, was done before these high speed drills. And currently we are having undiscovered testing of the filling material in Germany of standards in the 1930's and 1940's to see if the elemental proposition of the fillings are similar. But the style is what you would expect to see in that day and age from my experience.

In addition to that, he was missing three pre lowers, and those are in fact missing. He was supposed to have all his lower teeth.

Seven remain so that all of the teeth he should have had, he has. All of the teeth that are missing are missing. All of the teeth that should have been filled are filled.

Ideally, a comparison would have been done by an x ray, but we have not found one.

He also had Brazilian dental work done, probably within about 5 years of the time he has died.

The fistula that I pointed out to you, and we do not use personal interviews in our considerations, but one of the things was I asked Mrs. Stahmer if he had anything she could remember about his teeth. And she talked about the space, which everybody does, and I said, "Did he ever have toothaches?" And he said, "No, but occasionally the upper left cheek would swell." And this is totally consistent with having an antral fistula on the left side.

Senator SPECTER. What is that?

Dr. LEVINE. It is an opening, or defect, in the bone which is caused by infection, and allows the bone to drain from time to time.

Senator SPECTER. How does that suggest proof that it was Mengele?

Dr. LEVINE. It is another consistency, sir, in the dental picture that the man living in Brazil was the man who was buried in that particular casket in Embu.

We thought of two Mengeles. The man who lived in Germany, who was only known as Mengele, and the second issue was whether the remains that were buried in the cemetery in Embu was indeed the man who was living in Brazil. And so he escapes and leaves somebody else buried there. And so we were interested in the dental work and things and dental findings, and other findings of injuries of the man living in Brazil.

Mrs. Bossert told about him having partial dentures, which she knew, because she saw him clean them. And I asked her if she knew whether he had gold teeth. And he told me he had one and pointed to the left canine area. He in fact has two. One was a premolar, which is further back and would not have obvious.

Senator SPECTER. Would it have been obvious at all?

Dr. LEVINE. Probably not, sir.

Senator SPECTER. Might have been?

Dr. LEVINE. It is difficult to tell because we have no smiling photographs. I think it would not have been visible.

Senator SPECTER. Can you not tell from the remains of the location of the tooth whether it would have been visible from the smile?

Dr. Kerley.

## TESTIMONY OF DR. ELLIS KERLEY

Dr. KERLEY. Well, it depends on the smile. If it is a laugh with the mouth open, perhaps you can see it.

Dr. LEVINE. It is the type of casting you get down here so the front part is white. So it looks like tooth structures, and the part in the back is gold.

Finally, I would like to say one thing in relation to the dental work, and turn it over to my colleagues.

I have spent 2 weeks, twice now in June 1984, with Dr. Lukash, and again in 1985, attempting to identify the 8,000 to 9,000 disappeared CO's in Argentina who were murdered by the military regime, with relatives who were looking for him. I have seen no dental x rays. They have not been able to supply us with any. And in fact we have all of them supplied with two sets of x rays on anybody. One on the girl named Constanza, who was murdered, and another recently by a chest film, which Dr. Fitzpatrick, who was with the Wiesenthal Institute group, was able to do an identification. So I do not find it unusual at all that you cannot come up with medical or dental x rays in South America. And I have taught in Mexico, Venezuela, Costa Rica, Panama, and Argentina, and this is our greatest frustration.

Senator SPECTER. Let me ask just one final question.

Aside from the dental work which you have testified to extensively, is there anything in the other skeletal remains which shows the remains to be those of Josef Mengele?

Dr. Kerley.

Dr. KERLEY. I believe so. When you go to identify a skeleton, what you do is eliminate as many people as possible whose skeleton that could be. When we determine sex, we eliminate approximately 50 percent of the population of the earth. When we determine race, we eliminate another large percentage. Then when we look at the stature, we find it is within one centimeter, that is less than half an inch, the estimate, and the actual stature of Mengele at the time of death.

We look at the age. One of my specializations is the microscopic examination of pieces of bone to estimate the age at the time of death. This produces a known accuracy of plus or minus 5 years from birth through 95 years of age with a statistically determined reliability of about 87 percent.

In the case of Mengele, I made two sections in Brazil and examined them under a Brazilian microscope. And I estimated the age of those two sections at 69.25 years at the time of death. His actual age, according to the records, to the SS records, would have been 68 years. Frau Bossert indicated that he would have been 69 years of age within a month after his death. This is much closer agreement than I usually get when I work on forensic cases.

One centimeter is very close. We usually allow plus or minus 1 or 2 inches, for a difference between the estimate and the actual stature at the time of death.

In addition to which, we have pathologies. We have an old healed fracture of the right hip, which is consistent with a motorcycle accident that he sustained while he was at Auschwitz; a fistula of the face which is consistent with the swollen cheek and perhaps with an unspecified war wound for which he was decorated.

Osteoarthritis was noticed in the back and the thumb of one hand, and not only was this admitted by the others who said that he had a sore back and complained of that, but there was also some mention by some of the people who were at Auschwitz of his trouble with one of his fingers.

The left leg was a little bit shorter than the right by just a few millimeters. The Bosserts talked about him putting an insert in one shoe because he said he had a leg shorter than the other. They

did not believe him, but he was aware that one leg was shorter than the other. And this is consistent with the fractured hip.

Everything that each one of us looked at pointed in the same direction, in the direction of confirming this as being Mengele. This identification was based on a lack of any conflicting evidence, anything of any sort that might conflict with this identification. When you put this many different similarities together, the probability that this could occur on the basis of chance alone goes well beyond the accepted statistical levels, and it reaches almost astronomical figures.

Senator SPECTER. When you talk about reasonable scientific certainty, Dr. Kerley, are you able to translate that into a mathematical formula of one in a thousand?

Dr. KERLEY. 0.001, yes, sir.

Senator SPECTER. Do you have to have that little certainty to constitute scientific certainty?

Dr. KERLEY. No; you could accept it at the 1-percent level.

Senator SPECTER. Two percent?

Dr. KERLEY. No; the minimum would be the 5-percent level, 0.05, but most——

Senator SPECTER. Six percent?

Dr. KERLEY. No; most scientists would prefer to work with the 1 percent level.

Senator SPECTER. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Doctor, when we talk about the comparisons of the skeleton and the remains that were exhumed and the descriptions which the Bosserts and those who lived with this person in Brazil, as your testimony would indicate, are totally comparable, there are no deficiencies whatsoever, the fistula, the back, the hand, the other descriptions with respect to his teeth.

Is that correct?

Dr. KERLEY. That is correct. There is no conflicting evidence.

Senator D'AMATO. And you all find that there was no conflicting evidence, but this is not the typical forensic case. And obviously that is why we have experts such as yourselves come from many miles and give up great time and energies, and make a financial sacrifice: To ascertain whether or not this is Mengele.

What do we have to compare the remains that were unearthed in Brazil with the German individual, Mengele? That is where we have to look, and question. And you have all been involved in hundreds, if not thousands—I know my friend, Dr. Lukash, whom I have known since I got out of law school in 1961, 1962, and worked with him—you have handled collectively thousands of cases, murder cases, bodies, identifications, et cetera. I would like to know the body of information that you have had to compare that exhumation that we see in the pictures up here with that information that came from Germany. It comes to my mind that he would not be above, and those that he traveled with and his associates, would not be above substituting someone, picking someone, and having that person live in these conditions. And I will not go into that.

But how do we look into this, and what comparisons do you draw?

Dr. HAMELI. If I can respond to your question.

Actually the reason that we were concerned——

Senator D'AMATO. I think the average individual, the layperson says what is reasonable scientific certainty? Are you leaving yourself an out? We hear reasonable scientific certainty, and we know that is not 100 percent. And I must confess to you, when I read that, I said, what does this "reasonable" mean?

TESTIMONY OF DR. ALI Z. HAMELI

Dr. HAMELI. In daily work we do identification of bodies and, on many occasions, we do not utilize the phraseology of reasonable scientific certainty. We identify the body and, as such, we indicate that we are positive.

Let me say that if we had in this case fingerprints available or adequate dental records, we would have been able to say without any doubt that the remains were those of Josef Mengele. But indeed that was not the case. And how did we approach this? Well, we have a number of findings that I consider them scientifically strong enough for comparison, and then we have a number of them that, in my opinion, I call them soft evidence. You may want to accept them or you may want to reject them, or you may pursue the avenues of trying to confirm them.

Now, how did they compare? We had available to us by the U.S. Government, we have to start at a base. We considered that that file was authentic. If you consider it not authentic, then you may as well close the hearing right now and say we have not been talking sense.

What did we have as the base? One, 90 percent of the file was filled with the genealogies of Mengele and his family. A few items were indicated to us: What was his height? His height was 174 centimeters. That we considered to be authentic.

Two, an indication of his date of birth, and that gives us an indication of what we should look as to what his age should be.

Three, indicated his sex, and four, his race. So this we had from the documents in the SS file. And all findings that my colleagues and I, through our examinations, ascertained were consistent with those findings in the SS file which we considered authentic.

Again we had pictures of Mengele. Those pictures we considered authentic because they were in the SS file. And in those pictures we found the smiling face where we had the gap between the teeth. And then we had some other things we connected to the remains.

When we looked at the teeth, the upper jaw, we will see the gap there, and we will see the gap in the picture. We have an authenticated evidence in the SS file. We have the remains that we are examining. We are not looking in between the 30 or 40 years.

Senator D'AMATO. What you are saying, if you would go back to that picture, that is the authentic picture of Mengele in his SS file?

Dr. HAMELI. Yes, sir.

Senator D'AMATO. And you are saying that the skeletal remains are consistent?

Dr. HAMELI. Yes. There are some other parts.

For instance, our colleagues determined that these remains belonged to an individual who was right-handed, and evidence was

there of the skeleton, and we know that this man was right-handed.

We also depended on some other findings. For instance, German scientists compared the photographs, the photographs of Mengele in the SS file with the photograph of the man who was living under the name of Wolfgang Gerhard. And between those two photographs, the front view and the side view, there were 24 points of comparison.

Senator D'AMATO. When you say 24 points of comparison——

Dr. HAMELI. That they agreed with the identification, that the young Mengele was the man who was living under the name of Wolfgang Gerhard. And we believe now is old Mengele, they compared, and in fact I have a picture here which is a side by side view. And one example, you can see the frontal sinus here, the way the bottom of the forehead, as it gets to the nose, can see how it really compares, and there were 24 other points of comparison.

Senator D'AMATO. Were there any differences?

Dr. HAMELI. There were no inconsistencies in any of our findings. And I will get to that in just 1 minute.

I would like to add also that the superimposition of the skull, which was from the grave, and then superimposed on the photograph that we had as Wolfgang Gerhard, and the picture of young Mengele in the SS documents, again they all matched completely. There was no point of inconsistency.

So what we tried to do was to pick up the evidence from the SS documents which we believe is authentic, pick up evidence from this house of Bossert, where this man was living as Wolfgang Gerhard, and compare it with the remains in the grave, and compare it with the evidence which we know is authentic. And all these things agreed.

Now, these are scientifically firm evidence that I am talking about.

Now, there is some evidence. Dr. Levine mentioned to you something about the little fistula or opening defect this man had in his face. This is a magnification of that. Well, whatever Mrs. Bossert and Mr. Bossert told us, we ignored them. If we believe them, that will be an additional evidence. But that did not play any role in cumulative factors that we considered in order to come up with a reasonable scientific certainty.

And also there was the question—we found out that one leg was shorter than the other. All right. How did we document this? Mrs. Bossert said he would put inlay in the shoe. We did not believe that. However, two or three nights ago, I was a guest on a television program in Wilmington, DE, and the gentleman who was the host of the show happened to be in Auschwitz. He was one of the boys that was taking care of Mengele, for instance, shining his shoes, cleaning his shoes, and he told me did you know, without ever soliciting the information from him, did you know that he was wearing an elevated shoe on one side? I said—I started smiling, and I said we have scientific evidence that he wanted to compensate for that. So we did not use that piece of evidence previously, but if you go about finding these things and documenting them, we will have a lot more evidence that will narrow this gap to the point

that it would make him impossible to be another individual than Mengele.

And I would like to conclude my remarks by saying that we, the scientists, and I can talk on my behalf, and I am sure my colleagues agree with me, we look at the evidence and we draw conclusions and opinions. As of this moment, I have heard nothing that would be inconsistent with the findings that we have from SS documents, what we heard and what we see in the skeleton, and I challenge any forensic scientist who can come forward with scientific and documented evidence to dispute the findings. At that point, I will reconsider, but I have not thus far heard one word or one evidence to the contrary.

I have seen the pictures that they show Mengele is now walking as a woman. Do I believe that? I do not have any scientific evidence. I want them to show them to me, and I will reconsider.

Senator D'AMATO. Let me ask you about scientific evidence, doctor.

If you were to exclude all of the testimony by the Bosserts and others in Brazil, and were to look solely at the records available to you that have been authenticated, that were those of Josef Mengele, the man we knew in Germany, and then given the remains and that which you unearthed, not the documents, not the writing—I am not suggesting to you that the documents were not written by Mengele—but just the body that was exhumed, would you then come to the scientific conclusion that you did?

Dr. HAMELI. My conclusion would remain exactly the same.

But, as I have said, we did not include those.

Senator D'AMATO. So, in other words, your decision did not come about as a result of the testimony of people who lived with this person in Brazil for 17 years, and the evidence other than that which was discovered in the grave?

Dr. HAMELI. Exactly; we believed everything that they said was incorrect until proven otherwise.

Senator D'AMATO. And their testimony only augmented that scientific evidence that you accumulated? It came from the official documents, the SS documents, the dental records that were available at that time, and the reconstruction that you did from the grave?

Dr. HAMELI. Yes.

Senator D'AMATO. That is very important and that is why these hearings become so essential.

I have this built-in, I confess it, built-in predisposition to the belief——

Dr. HAMELI. May I make some recommendations, Senator?

Senator D'AMATO. Certainly.

Dr. HAMELI. I have heard that the case is to be closed. I would like, when I put this document together with my colleagues, this is going to be a historical document, I would like to be sure that we have all the evidence that is possible to be gathered. And I have sent already a list of this to Mr. Safir, that we would like to pursue these. I would like to someday have a laboratory, dental laboratory, or dentist in Brazil that they can find some dental record of this individual. Then we can tell you forget all about these other things. We have absolute point of identification here.

Senator D'AMATO. You are asking that that part of the investigation be continued?

Dr. HAMELI. Exactly; the Germans, my information is that, they are testing the compound of the amalgam fillings in the teeth, and I would like to know that what we have as far as comparison, and furthermore I would like to seriously recommend that we not somehow get rid of the skeleton. I do not know who has the custody of it at this point. The skeleton should remain so additional scientific study can be conducted.

Senator D'AMATO. Let me say this to you from someone who approached this at a very skeptical point. I must say that with regard to your testimony, and what you have requested: I am certain Senator Specter will join with me in the hope that the preservation of that skeleton and further study and preservation will be undertaken.

Let me thank you for giving me added insight. It is a sense of frustration, you know, the thought that we had closed in and then, when it looked like we were making very real progress at long last, this discovery is made that reportedly Mengele had died some 6 years previous. It just seemed to be too convenient for some of us. But certainly your testimony and that body of information and the care that you have taken and continue to take, for example, testing the fillings, et cetera, I can see why people like Simon Wiesenthal have agreed that this would appear to be indeed Josef Mengele.

I thank you for your patience in dealing with some of the questions that I have put to you, and the committee. And I certainly thank the chairman for his continued perseverance in this matter because, let me suggest to you, I do not believe we would have ever come to this point were it not for Senator Specter, if not for his continued perseverance.

There were those who simply did not want us to undertake this, who balked at the efforts of the Senate. That is how I became involved. The Government had chosen to ignore this until a lawsuit was filed, and until my colleague commenced hearings, and there was a public, I think, demand that had to be satisfied with this investigation.

I have no doubts that these materials would never have been unearthed or may have waited another 30 years before we ever came to this point.

Thank you, Mr. Chairman.

Senator SPECTER. Thank you, Senator D'Amato.

On that note, your initiating efforts under the Freedom of Information Act ought to be restated. It was your effort at the very start which focused the initial attention which led to the proceedings that have followed.

Just a couple of additional questions. We want to wrap up in the next few minutes.

There is evidence that the skull was fractured. Any evidence suggesting how that skull was fractured?

Dr. LEVINE. Yes.

Dr. HAMELI. There was a gravedigger who was ordered to go into the grave——

Senator SPECTER. The skull was fractured by the gravedigger?

Dr. HAMELI. Yes.

Senator SPECTER. No evidence of any trauma or any blow to the individual beforehand?

Dr. LEVINE. Absolutely postmortem.

Senator SPECTER. What forensic evidence is there, if any, that the death occurred by drowning?

Dr. HAMELI. It is only, we think, within a reasonable scientific probability, a little less we are sure——

Senator SPECTER. What is the evidence?

Dr. HAMELI. The reason I mentioned that the evidence is drowning is we questioned the Bosserts, and I mentioned we did not accept anything they said, but there are certain things they say, and they do not know what the meaning of it is, but we can determine the meaning of it scientifically.

Mr. Bossert said while he was trying to rescue Josef Mengele, he was almost half dead himself. When he finally took his body out of the water and laid on the ground next to him, he just could turn around and look at him. I said did you observe anything? He said I saw foamy material was coming out of his mouth. He did not know what the meaning of that was. But as a forensic pathologist, that to me indicates that the case was probably a case of drowning.

Senator SPECTER. Thank you.

Mr. Epstein, we have not given you an opportunity to say anything. Would you care to comment?

## TESTIMONY OF GIDEON EPSTEIN

Mr. EPSTEIN. My only comment is that I was involved in this investigation prior to the finding of the remains. I was familiar with Dr. Mengele's handwriting from the Berlin records prior to the findings in Sao Paulo.

Just in response to a question that came up much earlier in the hearing, having to do with photographs in Brazil, I previously identified the name Gregor Helmut—I previously identified the name as done by Josef Mengele. I just wanted to bring this in to show the relationship. The only difference was that he used the name Helmut Gregor, and if that writing was available, a future analysis could be done if any writings from that name, in addition to the ones I have identified, were in fact done by Josef Mengele, that there has been work done prior to the finding of the remains in order to identify whether or not Dr. Josef Mengele actually used any other names other than his own. And we did identify him as using that name for traveling from Italy to Argentina in 1949.

Senator SPECTER. Thank you, Mr. Epstein.

Mr. Cantu, would you care to make a comment?

## TESTIMONY OF ANTONIO CANTU

Mr. CANTU. Thank you, Senator.

My role was basically to look at the documents that we discussed, and to see that they were available at the alleged time of the writing.

I found no evidence to show otherwise in this case.

Senator SPECTER. Gentlemen, we thank you very much for your testimony here. I think the testimony is very impressive. It certainly expresses a tremendous amount of scholarly work and scientific

judgment, and I think it is an appropriate hearing on oversight by this committee.

Thank you very much.

[Whereupon, at 12 noon, the committee adjourned, subject to the call of the Chair.]

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# APPENDIX

## Anti-Defamation League of B'nai B'rith
## New York, N.Y.

### THE CAMPAIGN AGAINST THE U.S. JUSTICE DEPARTMENT'S PROSECUTION OF SUSPECTED NAZI WAR CRIMINALS

### I. Introduction

For more than five years, a campaign of propaganda and political pressure has been under way in the United States against efforts by the Federal Government to ferret out and deport suspected Nazi war criminals living in this country.1/ This campaign has escalated dramatically within the past six months, making more effective use of various propaganda smokescreens to conceal its proponents' true agenda and to attract media attention.

The Government's program, conducted by the Justice Department's Office of Special Investigations (OSI), was launched in 1979; the campaign to hamper and frustrate the OSI -- and eventually to kill it -- started soon thereafter. The campaign has been spearheaded by various individuals, organizations and publications based in the Ukrainian, Latvian, Lithuanian and Estonian communities in the United States. Government officials who prosecute these cases, Jewish and Polish organizations that support such efforts, and journalists who report on the prosecutions have regularly been branded "KGB dupes" or even Soviet sympathizers. At times, this campaign has been marked by ill-concealed anti-Semitic propaganda themes, and by blatantly revisionist attempts to "rewrite" history by denying central facts of the Nazi Holocaust.

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1/ This report will use the expressions "Nazi war criminals" and "Nazi criminals" to describe all persons who, during the period 1933-1945, ordered, advocated, incited, assisted, or otherwise participated in the persecution of civilians under the direction of, or in conjunction with, the Nazi Government of Germany or any government or organization affiliated therewith. Under Article 6 of the Charter of the International Military Tribunal at Nuremberg, "ill-treatment" of civilians is a war crime and "persecution on political, racial or religious grounds" is a crime against humanity.



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Network of Emigre Organizations

Although these efforts cannot be attributed to all Ukrainian-American or Baltic-American leaders, organizations or publications, it is significant that no such organization or its leadership that has come to attention has meaningfully supported the Government's program of prosecuting those in the U.S. suspected of aiding the Nazis in their prewar and wartime crimes, including their sinister effort to annihilate all of European Jewry.2/ On the contrary, many Ukrainian and Baltic emigre leaders, organizations and publications have been outspokenly opposed to the Government's program. An intricate and expanding network of emigre organizations, frequently characterized by interlocking and overlapping leaderships, has been established to promote these efforts.

One of the emigre groups leading the campaign against the Justice Department -- the Joint Baltic American National Committee -- was recently charged by U.S. Sen. Alfonse M. D'Amato (R., N.Y.) with employing deception in its efforts to gain Congressional support for an accused Nazi war criminal.

Urge Non-Cooperation With U.S. Government

Some of the emigre groups have openly urged members of their communities not to cooperate with federal investigators, and have set up defense funds which have raised thousands of dollars to pay the legal fees of accused Nazi

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2/ Because the United States lacks jurisdiction to bring criminal prosecutions against individuals who have committed crimes outside the United States and whose victims were non-Americans, the Federal Government's only recourse against suspected Nazi criminals is to initiate denaturalization (citizenship revocation) suits against them (if they have acquired U.S. citizenship) and then to seek their deportation. These prosecutions are civil, rather than criminal, suits.

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war criminals.3/ Others have demanded that the investigation and prosecution of suspected Nazi criminals be brought to an end, that the accused be granted "political asylum" in the United States, and that the Office of Special Investigations be "abolished." Some activist groups have called for all OSI cases to be "administratively suspended" until Congress "can convene special hearings" on the unit's operations. A leading emigre newspaper has alternatively proposed that war criminals who, in their postwar lives, have been "loyal to this country," should be allowed to move to "countries which would accept them for permanent settlement" instead of being deported to a country that might prosecute them for their crimes.

Prominent emigre activists have had private meetings with Reagan Administration officials and have orchestrated a massive letter-writing campaign directed at the White House, the Congress, and the Departments of State and Justice. They recently launched a lobbying campaign with the U.S. Congress seeking "changes" in the Holtzman

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3/ The April 6, 1985 issue of The Washington Post reported that Rasa Razgaitis, a leader in the "Americans For Due Process" emigre group, defended the fund-raising activities, asserting that it is unfair for OSI to prosecute defendants for a "civil technicality" and to deport them to face possible execution overseas. "These people are retired, old, they have limited funds and no right to court-appointed counsel," Razgaitis reportedly added. In a fund-raising appeal published in the December 7, 1984 issue of Darbininkas (a Brooklyn-based Lithuanian-language weekly), her organization similarly stressed the alleged physical infirmities of certain defendants whom OSI "cruelly" sought to deport, and called upon Lithuanian-Americans to "resist the activities of the OSI" and "defend our countrymen and our history," lest "we kill ourselves." Among the leading funds set up to aid accused Nazi war criminals are the "Lietuviu Teisems Ginti Fondas" (Fund for the Defense of Lithuanian Rights) in Chicago and the "Latvian Truth Fund" in New York. The Chicago fund, which recently boasted that it had raised nearly $9,000 in January 1985 alone, was established in 1983 with initial contributions from the American-Lithuanian Community, Inc., the Supreme Committee for the Liberation of Lithuania, and the American Lithuanian Council, Inc. It was reported in the November 7, 1981 issue of the Latvian-American newspaper Laiks that, as of the date, the Latvian Truth Fund had already spent some $97,000 defending Latvian immigrants accused of complicity in acts of Nazi persecution.

Amendment -- the landmark 1978 law that provides the primary statutory authority for deporting persons found to have persecuted civilians in collaboration with the Nazis during World War II. Some of the activists and emigre newspapers have even gone so far as to call for outright repeal of the Holtzman Amendment.

This theme has been picked up by certain right-wing extremist organizations and some of their publications, including Liberty Lobby, the Lobby's weekly paper, The Spotlight, the Populist Party U.S.A., the German-American National Political Action Committee, the Christian Defense League and its affiliated Americans First Lobby.4/

Five Specialized Organizations

At least five organizations have been founded by the emigre activists for the sole purpose of doing battle with the Federal Government on the issue of Nazi war criminals. They are: Americans For Due Process (Queens, N.Y.), the Coalition For Constitutional Justice and Security (Los Angeles), the Committee to Defend Lithuanian Rights (Chicago), the Committee Against the Use of Soviet Evidence (Cleveland), and the Latvian Truth Fund, Inc. (New York City).

Many of the leaders of the campaign against the Justice Department are either family members of persons charged by the Federal Government with complicity in Nazi

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4/ Liberty Lobby and The Spotlight are controlled by Willis Carto, for three decades a leading anti-Semite. He also controls the Institute for Historical Review, a leading organization which seeks to deny the reality of the Holocaust.

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crimes or lawyers who have made a specialty of representing such defendants.5/ The possibility cannot be excluded that, in some instances, pre-existing emigre organizations have been misled into allowing the anti-OSI activists to exploit their well-established names and considerable resources.

Two emigre organizations most active in the campaign against the Justice Department are Americans For Due Process, headed by Rasa Razgaitis, the daughter of accused Nazi war criminal Jurgis Juodis, and the Coalition for Constitutional Justice and Security, a Los Angeles-based group headed by Baltic American Freedom League Vice President Anthony Mazeika. Both of these organizations, devoted exclusively to the campaign against the U.S.

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5/ A case in point is that of Rasa Razgaitis, who, as the Coordinator of "American For Due Process" (an organization formed in 1983 to "resist" OSI), is one of the principal organizers of the anti-OSI campaign. Razgaitis is also the daughter of Jurgis Juodis, a St. Petersburg, Florida resident who is being prosecuted by the Justice Department based on underlying charges that he supervised mass executions of Jews and other civilians while serving as a lieutenant in a Nazi-sponsored "Schutzmannschaft" battalion in Lithuania and Byelorussia during World War II (U.S. District Court for the Middle District of Florida, Civil Action No. 81-1013-CIV-T-17). Among the attorneys who have represented numerous defendants in OSI cases and are now active in the campaign against that unit are Ivars Berzins (of Long Island, N.Y.) and S. Paul Zumbakis (of Chicago, Ill.).

Department of Justice, have featured in their propaganda a variety of false charges.6/

Americans For Due Process in particular has become increasingly shrill in its tirades. It recently declared, for example, that the "true purpose" of the Office of Special Investigations is "to spread Soviet propaganda to the world." The organization has also lamented the absence of a "statute of limitations" deadline for the Justice Department to prosecute war criminal cases.

Polish American Congress, Inc. Supports U.S. Program

In sharp contrast to the position taken by these Ukrainian and Baltic emigre activists is the stand of the Polish American Congress, Inc., with national headquarters in Chicago and a membership of some 3,000,000. The PAC wrote the Justice Department on January 9, 1985, declaring that "we strongly support the efforts of the Justice Department's Office of Special Investigations (OSI) to identify, strip of American citizenship, and deport alleged Nazi war criminals now residing illegally in the United States." "The efforts of the OSI," the letter continued, "are in accord with the belief we share, that America exists as a

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6/ For example, both groups have charged that Federal District Court Judge Norman C. Roettger (incorrectly identified by these groups variously as Judge "Roettinger" and Judge "Roettlinger") has "condemned" the Office of Special Investigations. They quote Judge Roettger as railing against OSI for using

> "...despotic tricks, paid informers, hearsay as evidence, lack of documentation, trick photos and totalitarian-type police methods totally unacceptable by American standards."

In fact, Judge Roettger is not known ever to have made any statement about OSI, much less the one quoted above. Although he has presided over one case involving an accused Nazi war criminal (Feodor Fedorenko, an admitted former SS guard at the Treblinka death camp), that case was prosecuted by the United States Attorney in Ft. Lauderdale, Florida, in 1978, prior to OSI's creation. (Fedorenko's denaturalization was ultimately approved by the U.S. Supreme Court, and he was deported in December 1984 to the Soviet Union -- the country to which he had asked to be sent.)

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haven for the victims of persecution and not the perpetrators of it."7/

Clamorous voices in the Baltic and Ukrainian emigre communities nevertheless continue their efforts to mobilize members of those communities and others to oppose, and even to eliminate, the Justice Department's program to prosecute suspected war criminals. Their statements and press releases have been widely published by newspapers that serve the Ukrainian and Baltic communities in key metropolitan areas in the U.S. and Canada. In these declarations, the activists often assert that the defendants are entirely innocent and that they are being "persecuted" by the Justice Department. The Government's supposed heartlessness in prosecuting elderly suspects is another common theme. As the campaign becomes more sophisticated, these polemics have increasingly included claims that "of course" their sponsors support -- or at least "do not oppose" -- efforts to bring "genuine" war criminals to justice.

In their efforts on behalf of suspected war criminals, many of those leading the anti-OSI campaign have exercised little caution or selectivity. They appear to have offered financial, political, and propaganda support to any and all suspects of Ukrainian or Baltic extraction who have been prosecuted, or who face prosecution, by the U.S. Government, regardless of the sources or the strength of the Justice Department's evidence. For example, some emigre activists continued to use the name of Antanas Lipsys (a/k/a Hans Lipschis) in defense fund solicitations published in the Lithuanian-American press long after it was publicly reported that he had actually confessed to serving as an SS officer at the infamous Nazi death camp complex at Auschwitz-Birkenau, Poland.8/

Anti-Semitism in Some Emigre Statements

In their English-language public statements, the leading voices in the campaign against the U.S. Government's program are typically cautious and seemingly moderate. But in declarations published in their native languages, many of them abandon caution; these statements sometimes contain

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7/ The Polish American Congress, Inc. letter is available on request.

8/ In April 1983, Lipsys was finally deported to West Germany.

crudely anti-Semitic material, use questionable or even anti-Semitic sources, or themes that question basic facts of the Holocaust itself. (See discussion and examples at Sections VII and VIII below.)

Some of those involved in the campaign against the Justice Department have sought to elicit the support of others of the same ethnic background by implying that any prosecution of individual defendants is actually an attack on the integrity of the entire Ukrainian and Baltic emigre communities themselves; the activists argue that measures must therefore be taken, in the words of Americans For Due Process, to "defend our countrymen and our history."9/ They have in effect suggested that prosecution of some emigres besmirches the good name of all persons of similar national origin -- in short, that the U.S. Government's program taints the reputation of all Ukrainian-Americans, all Lithuanian-Americans, all Latvian-Americans, and all Estonian-Americans. Obviously, however, such is not the case. Indeed, the fact that many Balts and Ukrainians acted selflessly and with great heroism to save Jewish lives and to fight the Nazis is frequently brought out during trials of OSI's cases, particularly in the testimony of Jewish survivor-witnesses who survived the war through the bravery of these non-Jews.

There seems, however, to be a pervasive unwillingness among the activists simply to say, "Yes, some immigrants from the Baltic nations and the Ukraine were among those throughout Nazi-occupied Europe who served as Hitler's henchmen, and if American courts of law find that they have engaged in acts of Nazi persecution, they should be deported -- and we will assist the Government to bring them to justice." Indeed, in a moment of perhaps unprecedented candor, Vienybe, a New York-based Lithuanian-language newspaper, recently conceded editorially in its issue of February 1985 that one of the difficulties faced by the emigre activists in dealing with the Justice Department's belated anti-Nazi efforts is that during the 40

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9/ Darbininkas [Lithuanian-language weekly, Brooklyn, N.Y.], December 7, 1984. Similarly, in the October 16, 1984 issue of Draugas, a Lithuanian-language daily published in Chicago, Americans For Due Process charged that the Justice Department seeks "to rewrite the history of Eastern Europe and smear its citizens." Federal prosecutors, according to AFDP, "are accusing not Nazis and their collaborators -- they are accusing the nations of all of Eastern Europe."

years since the end of World War II, "we did not even distance ourselves from the killers of the Jews."

## II. Goal of the Campaign: Ending the Pursuit of Suspected Nazi War Criminals

The goal and purpose of the campaign against the Federal Government's anti-Nazi program is clear: it is the destruction of the Justice Department's Office of Special Investigations and the termination of efforts by the U.S. Government to uncover and prosecute suspected war criminals who have gained entrance to this country by lying to U.S. immigration officials about their wartime whereabouts and activities.

Some Ukrainian and Baltic emigre activists have, for example, called for the imposition of a "statute of limitations"-type deadline for prosecution by the U.S. Government of such cases, although the courts have uniformly held that no such amnesty statute applies.10/ Two leading activists who have complained publicly about the absence of a statute of limitations in these cases are Rasa Razgaitis of Long Island, New York, and Mari-Ann Rikken of Arlington, Virginia.

Razgaitis, writing as the Coordinator of Americans For Due Process, bemoaned the absence of a statute of limitations in OSI cases in a letter to the editor published in The Washington Post on April 18, 1983. Rikken, a national elected member of the Estonian American National Council and

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10/ It should be noted that not even West Germany has a statute of limitations applicable to Nazi murders. Numerous major legal and political organizations, including the United Nations General Assembly (by Resolution 2391, November 26, 1968), the Consultative Assembly of the Council of Europe (by Recommendation 415, January 28, 1965), and the United States Congress (by H. Res. 106, approved May 9, 1979 by a vote of 401 to 0) have opposed the application of any statute of limitations to Nazi war crimes. If a prosecutorial deadline is ever imposed on the Justice Department, the United States will become the only nation in the civilized world in which individuals will be able, with full legal impunity, actually to boast of killing Jews and committing other Nazi crimes.

a member of the Executive Committee of the Coalition for Constitutional Justice and Security, made the same complaint in a letter to the editor published in The Washington Times on December 9, 1983.

Imposition of an administrative equivalent of a statute of limitations on OSI's cases was demanded during a private October 14, 1983 meeting held with White House and National Security Council officials by representatives of Americans For Due Process, the Baltic American Freedom League, Americans Against Defamation of Ukrainians, and the Lithuanian American Community, Inc.

Attorneys representing defendants in various OSI cases made the same demand at a private November 14, 1983 meeting with Justice Department officials; the request was summarily rejected by Assistant Attorney General Stephen S. Trott in a November 23, 1983 letter in which he also rejected the activists' demand for free lawyers. Trott noted that "you appear to be singling out OSI's litigation for such treatment, as no such requirement applies to other denaturalization or deportation actions."

Other emigre activists have bluntly called for the immediate termination or "suspension" of all efforts to root out Nazi war criminals. And in its January 1985 issue, Latvian News Digest -- a publication of the American Latvian Association in the United States -- called upon Congress to repeal in its entirety the Holtzman Amendment of 1978, as noted, the law that provides the primary statutory authority for deporting Nazi persecutors. (The Amendment has also been attacked by Baltic American Freedom League Vice President Anthony Mazeika for establishing "ex post facto conditions" for deportation).11/ All of these proposals have the same aim: to end the commitment of the U.S. Government to seek out and prosecute suspected Nazi war criminals now living in this country.

## III. Urging Non-Cooperation With Federal Investigations

The campaign against the U.S. Government's program has openly sought to deny U.S. prosecutors evidence and witnesses from the Soviet Union and territories it now controls (see Section IV below). The campaign has actually sought, moreover, to block access by Federal investigators to evidence from sources in the United States as well.

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11/ Op Ed piece in The Register (Santa Ana, California), February 14, 1985.

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One example was a notice that was published in the September 23, 1983 issue of Darbininkas ("The Worker"), the Lithuanian-language weekly published in Brooklyn, New York.12/ The announcement, placed by the "Committee to Defend Lithuanian Rights", warned that U.S. Justice Department investigators and attorneys were seeking to obtain testimony from potential witnesses who live in the United States.

The advisory included a list of "known employees of the OSI" who might be making such inquiries. It emphasized that no one need "answer any, even the simplest questions about yourself and others" or cooperate with the Justice Department in any other way. The message could hardly have been clearer: no one should assist the U.S. Government in pursuing and bringing to justice those suspected of Nazi war crimes.

Dirva ("The Field"), a Lithuanian-language weekly published in Cleveland, had taken the same line on July 29, 1982, when it bluntly advised its readers: "Let us chase these [OSI] interviewers from our homes" -- a clear attempt to block the pursuit of justice by Federal law enforcement authorities.

During his March 12, 1985 testimony as a defense witness in the deportation proceedings against accused Nazi war criminal Karl Linnas, Mykolas Drunga, the associate editor of Draugas ("The Friend"), a Lithuanian-language daily published in Chicago, was asked whether his newspaper had "ever instructed . . . members of the Lithuanian community not to talk to officials of the Justice Department in the respect of prosecution of Nazi war criminals." His response, in part: "Yes, there might have -- as a matter of fact, there were -- I do remember such instructions, but I think they were contained in signed letters, in publicly signed letters to the editor."

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12/ Darbininkas is published by the Franciscan Fathers Press, and its hostility to Jews was apparent as long ago as 1978. A complaint by the Anti-Defamation League of B'nai B'rith to the Vatican resulted in a reprimand from Rome to the editor's superior in the U.S. in the Spring of 1979. Rev. Francis J. Muller, O.F.M., wrote from Rome that an article that "reeks with prejudice" against Jews "honors neither the magazine nor the Franciscans" and that it was "inappropriate for a magazine sponsored by the followers of St. Francis of Assisi. . . ."

Although these calls for non-cooperation were reported on in an April 6, 1985 Washington Post article distributed by the Coalition For Constitutional Justice and Security at an April 19, 1985 press conference, neither the CCJS nor any other emigre activist group or leader is known to have disavowed or criticized these efforts.

The calls for non-cooperation with the U.S. Government appear, in fact, to have borne fruit: In its April 3, 1985 issue, The Washington Post reported that the Director of the Office of Special Investigations had complained that the Justice Department now gets "absolutely no cooperation from these ethnic communities." In its May 17, 1985 decision in the case of accused Nazi war criminal Konrads Kalejs, the U.S. Board of Immigration Appeals similarly spoke of "[a] pattern of non-cooperation with the investigation [of Kalejs] on the part of certain persons in the Latvian Community."

## IV. Propaganda Smokescreen

A major thrust of the campaign by emigre activists against the U.S. Government's efforts to find and prosecute suspected war criminals has been a propaganda smokescreen that seeks to exploit anti-communism and U.S.-Soviet tensions. The propaganda campaign has featured repeated denunciations of the the Justice Department's use, in some of its cases, of evidence obtained from archives and witnesses in the Soviet Union and in Soviet-occupied territories.

The emigre activists time and again charge that this evidence is "fabricated" and should be barred from use in court. They commonly proclaim, moreover, that those individuals whom the Justice Department has prosecuted were merely "anti-communists," not war criminals.

In addition, most of the emigre activists have seriously exaggerated the role that Soviet-origin evidence plays in Justice Department prosecutions of suspected war criminals, while studiously avoiding all mention of admissions by the defendants themselves and other incriminating Western-origin evidence in these cases. The publicity given the activists' accusations in many emigre newspapers helps to alert potential targets of prosecution to a convenient defense which they might try to use in the event that they come under Federal investigation.

### Importance of Evidence From Soviet-Controlled Territories

The fact is that the overwhelming majority of civilian deaths at the hands of the Nazis during World War

II took place on territory now behind the Iron Curtain (where, for example, all of the Nazis' extermination camps were located).13/ Hence, evidence from Soviet-controlled areas, especially documents left behind by the Nazis and captured by Allied Forces, including those of the Soviet Union, is of obvious importance.

For similar reasons, many witnesses still reside in the Soviet Union, Poland, and Soviet-annexed lands. Accordingly, evidence from these areas was used at the Nuremberg Trials of 1946-49 and has been similarly employed by Western courts in Nazi prosecutions ever since.

Documents captured from the Nazis and used in denaturalization and deportation suits in the United States have been subjected to rigorous scientific testing by experts for the U.S. Government and by experts hired by defendants themselves. Moreover, it is Justice Department policy to underwrite the expenses of defense counsel to travel to the Soviet Union to cross-examine witnesses. The Soviet authorities have no way of knowing in advance what questions the witnesses will be asked, or what evidence may exist in the West to support or contradict the testimony elicited.

Soviet-Origin Evidence Tested in the Courts

Documentary and testimonial evidence of Soviet origin has been universally credited in Nazi war crimes cases tried before courts in other Western countries and in all but two of the many cases in which such evidence has been used in this country. (These two cases are now on appeal.)

Like the eminent jurists at the Nuremberg Trials and their counterparts in courts in West Germany, the Netherlands, Canada, and elsewhere in the West, moreover, no American judge has concluded that any documentary evidence obtained from the Soviet Union was fabricated. Nor has any witness made available by the Soviet Union been found to have lied in connection with his or her testimony.

In some cases, witnesses from the Soviet Union and Soviet-annexed territories have actually given exculpatory testimony that has helped clear suspects. Moreover, the

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13/ Many others, of course, perished of disease, starvation and other causes at Nazi installations described as "concentration" camps.



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defendants themselves frequently verify the accuracy of the Soviet-provided evidence. The case of accused Nazi war criminal George (a/k/a Yuriy) Theodorovich is a good example. During the Justice Department's initial interrogation of Theodorovich in Albany, New York in 1982, he dismissed the suggestion that he had served during World War II in the Nazi-sponsored Ukrainian Police as a KGB fabrication. At a second session some months later, however, Theodorovich not only admitted that he had indeed served with the Ukrainian Police, but confirmed his authorship of various documents captured by the Soviet Union in which he had accounted to his superiors for ammunition he reported expending in killing Jews.14/

These same arguments against what the emigre activists derisively brand as "Soviet evidence" were used frequently by defendants in West German war crimes trials some years ago. The arguments were uniformly rejected by the West German courts, however, and have been largely abandoned. In his book, The Investigation of Nazi Crimes 1945-1970 -- A Documentation, published in West Germany in 1979, Adalbert Ruckerl, then the director of that country's Central Office of Land Judicial Authorities for the Investigation of Nazi Crimes, wrote:

> "The suspicion voiced at the beginning that the documentary records from Eastern states might perhaps be forgeries has now largely died away since it was revealed that those most likely to profit, i.e., the accused themselves, do not avail themselves of this eminently handy argument but instead acknowledge almost without exception the correctness of the documents when confronted with them."

Forty Years: No Evidence of Perjury or Forged Documents

For all their claims and charges, the emigre activists have been unable to document a single instance, over the past forty years, of forged evidence or perjured testimony being obtained from the Soviet Union for use in Western trials of accused Nazi war criminals.

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14/ The transcripts of both interviews are on file with the U.S. District Court for the District of Columbia, Civil Action No. 83-2361. As to exculpatory testimony provided by witnesses from the Soviet Union, a case in point is that of Mykola Kowalchuk (Civil Action No. 77-119, U.S. District Court for the Eastern District of Pennsylvania). In part as a result of such exculpatory testimony, the case was dropped by OSI in 1981.

The motivation for the emigre activists' reliance on the "KGB plot" scenario was betrayed by a statement made at a January 12, 1985 meeting held at the Hyatt Regency Hotel in Washington, D.C. This meeting was the genesis of a new emigre organization formed to combat the Justice Department on what the group has termed "the issue of Nazi and other war criminals living in the United States." The new organization was the Coalition for Constitutional Justice and Security, mentioned previously. At the meeting, one of the principal organizers of the anti-OSI campaign announced that reliance on the "Soviet disinformation" theme would be intensified, boasting that it had proved to be "the most sensitive and successful subject when dealing with government officials."

At its press conference in Washington, D.C. on April 19, 1985, moreover, the Coalition distributed a position paper insisting that "all OSI cases should be administratively suspended" until Congress "can convene special hearings to resolve the questions pertaining to the use of Soviet materials." The CCJS did not limit its suspension demand to cases in which evidence of Soviet origin forms part of the Government's case; rather, it demanded that "all" OSI cases be suspended.

The Polish American Congress, a leading anti-Communist organization which has been at the forefront in rejecting the propaganda smokescreen employed by the emigre activists, declared in its previously mentioned letter that it opposes actions to "interfere with OSI's effort to obtain evidence of wartime Nazi persecution from archives and witnesses in Eastern Europe, including the Soviet Union."

An Influential Supporter

The campaign of the emigre activists against the OSI has had support from former syndicated columnist Patrick J. Buchanan who was appointed White House Communications Director in February 1985.

In a 1982 television broadcast, Buchanan charged that after the passage of nearly four decades since the end of World War II, it was no longer a "proper use of resources" to expend taxpayer dollars to "aggressively" pursue Nazi war criminals. On December 1, 1983, and on February 22, 1984, Buchanan wrote columns criticizing the Justice Department's OSI for "fraternal collaboration" with the Soviet KGB and expressing sympathy for John Demjanjuk

of Cleveland, accused of having operated the gas chambers at the Treblinka death camp.15/

A Michigan Resolution

More recently, the Baltic American Freedom League (based in Los Angeles) and the Lithuanian American Community, Inc. (headquartered in Chicago), managed to convince twenty-eight members of the Michigan State Senate to introduce, on February 26, 1985, "Senate Resolution No. 57" (consideration of which is now in abeyance). The document criticizes the Justice Department for "disregarding" the U.S. policy of non-recognition of the Baltic states' annexation by the Soviet Union and its "questionable cooperation" with Soviet authorities. Resolution No. 57 also attempts to deny irrefutable facts concerning the actions of certain Lithuanian collaborators with the Nazis -- and particularly to "erase" the findings of two Federal courts in the case of Kazys Palciauskas, a Florida resident who was denaturalized in 1983.

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15/ In 1981, Demjanjuk, who is the subject of ongoing deportation and extradition proceedings, was found by Chief Judge Frank Battisti of the U.S. District Court in Cleveland to have been the infamous SS guard known at the Treblinka death camp as "Ivan the Terrible" for his role in operating the camp's gas chambers and for the tortures to which he subjected the doomed Jewish inmates there. The only "Soviet" evidence offered by the Government was a captured Nazi identification card, which did not even mention Treblinka. The eyewitness testimony against Demjanjuk came exclusively from Jewish survivor-witnesses now living in Israel and Uruguay, and from a former Treblinka SS-man now living in West Germany. Demjanjuk's "alibi" -- that he had been held by the Germans at a prisoner-of-war camp in Chelm, Poland until the fall of 1944 -- collapsed dramatically at trial when it was established that Allied forces had driven the Germans out of Chelm by July 1944. Demjanjuk also admitted at trial that he had a blood group tattoo, later removed, under his left arm. Only persons affiliated with the German SS were given such tattoos. These facts notwithstanding, Patrick Buchanan charged in his syndicated columns that the Justice Department's efforts to prosecute Demjanjuk amounted to "an official lynching, choreographed by the KGB. . . ."

Findings in the Case of Kazys Palciauskas

Federal District Judge Robert D. Morgan issued his 1983 decision in the Palciauskas case after a lengthy trial at which it was proved by uncontroverted evidence that Palciauskas had served during the Nazi occupation of Lithuania as Mayor of its then-capital city of Kaunas (Kovno). On his U.S.immigration papers, however, Palciauskas stated that he had spent the war years as a "clerk" in a Kaunas food cooperative.

Judge Morgan found that it was "beyond dispute" that Palciauskas had participated in the creation and administration of the ghetto, enclosed by barbed wire, in which all Jews were forced to live, under conditions which, according to the Court, Palciauskas knew were "horrible." Judge Morgan found that Palciauskas' municipal government had confiscated all Jewish-owned property outside the ghetto and that after the ghetto's thousands of Jewish inhabitants were annihilated in mass executions during the summer and fall of 1941, Palciauskas set up a special operation to redistribute, to non-Jewish Lithuanians, the homes formerly owned by the murdered Jews. The Judge concluded that Palciauskas "lacked the good moral character required for [U.S.] citizenship" and ordered him denaturalized. The decision was later affirmed unanimously by the U.S. Court of Appeals for the 11th Circuit. The U.S. Supreme Court denied Palciauskas' petition for review.

The Palciauskas trial and its aftermath apparently touched a nerve within the emigre activist community. In obvious response to these events, the following paragraph was included in Michigan Senate Resolution No. 57:

> ". . . OSI has, in part, focused on individuals who served in civilian administrative positions during the German occupation of Lithuania. It is assumed that those who served as public officials during this period did so in support of German War activities. The Lithuanian American Community, Inc. believes that no evidence exists which would prove such an allegation, and that, to the contrary, the overwhelming body of evidence points to the conclusion that Lithuanian administrators during that period served only to defend Lithuanian national interests and to undermine the authority of the occupying German forces." (Emphasis added.)

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In literature handed out at its April 19, 1985 Washington press conference, the Coalition For Constitutional Justice and Security openly announced that it would work to secure "passage of state resolutions similar to Michigan Senate Resolution #57." The CCJS, as noted, is headed by Anthony Mazeika, Vice President of the Baltic American Freedom League -- the Resolution's co-sponsor in Michigan.16/ In addition, it was the BAFL which first announced the formation of the CCJS (in March 1985), and the two groups operate out of the same post office box address in Los Angeles.

## V. An Activist Attorney

A leading voice in the campaign against the Justice Department is S. Paul Zumbakis, a Chicago lawyer who has represented a number of defendants in cases brought by the OSI. Zumbakis is a member of the Legal Committee of the World Lithuanian Community, Inc.

During 1983, he met with high-ranking officials of the State and Justice Departments, the National Security Council, and with White House aides. Late in March 1984, Zumbakis distributed 650 copies of a 140-page packet of "evidence" about the Justice Department's Nazi prosecution program to the President, the Chief Justice of the United States, the Attorney General, Members of Congress and the Washington press. A covering letter contemptuously referred to OSI as "this cancer within the Justice Department."

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16/ A May 8, 1984 Associated Press dispatch also identified Mazeika as the National Coordinator of the Ban the Soviets Coalition, a Costa Mesa, California organization which sought to have the Soviet Union barred from participation in the 1984 Olympic Games in Los Angeles. In a press release dated March 22, 1985, the group, which is now known as the Ban Coalition, attacked the Office of Special Investigations for "committ[ing] numerous unrestrained abuses of constitutional rights under due process," including "denial of trial by jury" [which, in fact, has been mandated in all denaturalization cases by the U.S. Supreme Court -- not by OSI -- since Luria v. U.S. was decided in 1913], "kangaroo court proceedings," "forceful deportation efforts," and "acceptance without question" of Soviet-origin evidence "that has every indication of fabrication." The release stated, however, that the Coalition "does not oppose" efforts to track down "Nazi collaborators" and bring them to justice.

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The March 8, 1984 issue of Draugas, a Lithuanian-language daily published in Chicago, carried an article authored by Zumbakis that was conspicuously absent from the collection of "evidence" -- letters, telegrams, articles and the like -- which Zumbakis distributed in Washington just three weeks later. The article by Zumbakis was entitled "If the Jews Only Knew: OSI-KGB Collaboration Is Not In Their Best Interest."

The article implied that cooperation by the Justice Department with Soviet officials in the pursuit of suspected Nazi war criminals was no different from cooperation with the Nazi Gestapo in the systematic persecution of millions of Jews and others. Zumbakis wrote:

> "Isn't [OSI's] collaborating with the KGB the same as collaborating with the Gestapo, of which many a 70-80 year old immigrant is accused . . . ?" [Emphasis added.]

Zumbakis also underscored the fact that some members of the staff of the Justice Department's OSI were Jewish. He wrote:

> "One would think that American Jews could not tolerate any of their own, employed with the OSI, to fraternize so closely with representatives of the KGB and the prosecutors in the Soviet Union. . . ." [Emphasis added.]

At another point in his article, Zumbakis implied that Jewish organizations in the United States were seeking to conceal from the Jewish press and the Jewish community at large the fact of U.S. cooperation with the Soviet Union in seeking to bring suspected Nazi war criminals to justice. He wrote:

> "Could it be that those [Jewish welfare] organizations do not wish the Jewish intellectuals and the general Jewish public to know that the OSI organization, created by the U.S. government, is serving KGB objectives?"

Zumbakis' March 1984 Capitol Hill campaign was followed by a full-page advertisement published in the November 1, 1984 issue of Draugas, just before Election Day. The ad, which featured an "Open Letter to the President's Men" signed by Zumbakis, sought to mobilize the Lithuanian community in the U.S. to greater activity against the Justice Department. It declared in large type: "We must vote and tell our friends of our issues. We can make the differ-

ence in 1984!" The headline on the advertisement read: "SHOULD AMERICAN LITHUANIANS VOTE FOR REAGAN? PERCY? -- YES, BUT . . ." (In an announcement placed in the October 16, 1984 issue of the same newspaper, Americans For Due Process had advised readers of Draugas that politicians are "vulnerable".)

The advertisement went on to insinuate that former OSI directors Walter Rockler (who served as a U.S. prosecutor at Nuremberg) and Allan A. Ryan, Jr. had "promised" the Soviets to help "carry out the communist party plan for smearing anti-communist emigre communities and their national heritage." The ad also included a denunciation of the OSI in which Zumbakis wrote of the unit's "evil web" and derided it as an "insignificant" operation and a "trifling section of the Justice Department."

## VI. The Case of Karl Linnas and 'Non-Recognition'

The case which has become a major rallying point for the emigre activists is that of Estonian-born Karl Linnas, who faces deportation as a former supervisor at the Nazi concentration camp in Tartu, Estonia, from 1941 to 1943.

Charging that when he immigrated to the U.S. after World War II, Linnas had failed to mention this background to U.S. immigration officials, the Justice Department began denaturalization proceedings against him in 1980. Following trial of the case (at which Linnas refused to testify, despite a court order requiring him to do so), the Federal District Court in Uniondale, New York revoked Linnas' U.S. citizenship. The Court found that he had "occupied a supervisory role" at the Tartu camp and that he had concealed from U.S. authorities "his participation in Nazi atrocities." It was revealed at the trial that Linnas had, more than twenty years ago, admitted the fact of his service at the Tartu camp to a Long Island co-worker who asked him about an article in a New York newspaper detailing the allegations against him.

Linnas unsuccessfully appealed the District Court's decision all the way to the U.S. Supreme Court. In deportation proceedings subsequently brought against him, the U.S. Immigration Court in Manhattan ordered Linnas deported from the United States. In response to the Justice Department's announcement of its intention to seek Linnas' deportation to the U.S.S.R., emigre activists and groups launched a massive

campaign on his behalf, arguing that his deportation to the Soviet Union would -- somehow -- violate the long-standing U.S. policy of not recognizing the Soviet annexation of Estonia and the other Baltic captive nations -- Latvia and Lithuania.

Attorney Zumbakis' previously mentioned "Open Letter to the President's Men" was one of the first salvos in the campaign to aid Karl Linnas. In that letter, Zumbakis asserted that the basis for the order of deportation entered against Linnas was the court's conclusion that he had made what Zumbakis belittled as "technical misrepresentations" on his U.S. visa application.

Ignoring Admissions and Other Western Evidence

Conveniently ignoring the fact of Karl Linnas' extraordinary admission concerning his concentration camp service, the emigre activists working on Linnas' behalf have rarely missed an opportunity to charge that he faces deportation because of "Soviet evidence."

For example, the Coalition For Constitutional Justice and Security has asserted that evidence of Soviet origin "was at the core of the OSI's case" against Linnas, and the Joint Baltic American National Committee has declared that "OSI most probably could not have successfully prosecuted the case" without that evidence. Such exaggeration of the significance that evidence of Soviet origin plays in OSI's cases is probably the most widely used ploy in the emigre campaign against the Justice Department.

At the behest of the Maryland-based Joint Baltic American National Committee (JBANC), several members of Congress wrote letters to Secretary of State George Shultz on behalf of Linnas or otherwise showed sympathy for his supporters' cause. (The JBANC is an umbrella organization comprised of one representative from each of three groups: the Lithuanian American Council, the Estonian American National Council, and the American Latvian Association.)

One of the legislators who wrote in support of Linnas was Sen. Alfonse M. D'Amato (R., N.Y.). Later, Sen. D'Amato publicly accused the JBANC of "lying" to his staff and "deceiving" them into drafting the Senator's September 28, 1984 letter to Secretary Shultz -- a charge which a JBANC spokesman has denied. Sen. D'Amato announced that, as soon as he learned the actual facts of Karl Linnas' background, he sent Secretary Shultz a second letter. That letter, dated December 19, 1984, read as follows:

"It has come to my attention that some individuals may have misinterpreted my letter to you of September 28, 1984, as an attempt to protect Nazi war criminals from prosecution and deportation. I find such an interpretation outrageous.

"My letter had no such intent. I merely wished to assert my desire that our policy toward the Captive Nations remain intact. It is inconceivable that Nazi war criminals should seek protection under our Captive Nations Policy."

Non-Recognition and the State Department 'Declaration'

In their effort to find some quasi-legal theory or loophole, however spurious, on which to base their efforts on behalf of Karl Linnas, virtually all of the emigre activist campaigns -- including those of Americans For Due Process, the Baltic American Freedom League, the Joint Baltic American National Committee, and the Coalition For Constitutional Justice and Security -- have settled on the argument that deporting Karl Linnas (who was born in Estonia) or any Balt to the Soviet Union would violate the U.S. policy of not recognizing the forcible Soviet annexation of the Baltic nations.

This argument collapses, however, because the Federal Government has designated the U.S.S.R. as the place of deportation not on the theory that it is Linnas' country of origin, but rather on the simple basis that it is, in the words of Section 1253(a)(7) of the Immigration and Nationality Act (Title 8 of the U.S. Code), a "country which is willing to accept such alien into its territory." Hence, deporting Karl Linnas to the Soviet Union would no more contravene the non-recognition policy than would deporting him to a country in the Western hemisphere.

On December 20, 1984, the U.S. State Department affirmed that the deportation of Karl Linnas to the Soviet Union would not in any way contravene the U.S. policy of non-recognition with respect to nations, such as Estonia, occupied by the U.S.S.R. That statement was contained in a "Declaration" signed by Davis R. Robinson, Legal Advisor to the State Department, and later filed with the Immigration Court in New York City. The Court agreed with the Departments of State and Justice, and it subsequently ordered Linnas deported to the Soviet Union.

On January 16, 1985, Sen. D'Amato sent the Director of the Office of Special Investigations a copy of his

December letter to Secretary Shultz. In his letter to OSI, the Senator wrote:

> "Pursuant to the conversation you had earlier this afternoon with my Legislative Director, Bruce Ray, I am enclosing a copy of my December 19, 1984 letter to Secretary Shultz. I wish to reemphasize my position that, in my opinion, no Nazi war criminal should be able to shield himself from deportation by virtue of our Captive Nations policy.
>
> "I understand the State Department has made a finding in the case of Mr. Karl Linnas that our Captive Nations policy does not prohibit this Nazi war criminal from being deported to the Soviet Union and has so informed the Board of Immigration Appeals. I wholeheartedly support this finding and believe it should be generally applied to all Nazi war criminals.
>
> "The passage of time has not diminished the inhumanity of Nazi war crimes. It is imperative that those who perpetrated these barbarous acts be dealt with swiftly and severely. There is no justification for allowing any Nazi war criminal to avoid deportation and elude justice through a loophole in our foreign policy.
>
> "I look forward to working with you in the future and, as you know, I strongly support your work at the Office of Special Investigations."

The Holtzman Amendment

The emigre activists profess grave concern about Linnas' possible fate in the Soviet Union. However, Congress determined in 1978 that adjudicated Nazi persecutors could be deported to the U.S.S.R., and that their treatment there was to be of no concern to the United States. After extensive Congressional hearings at which the question of deportations to the U.S.S.R. was specifically addressed, the Congress passed, and the President signed, Public Law No. 95-549 (the so-called "Holtzman Amendment"). It provides in part that adjudicated Nazi persecutors cannot evade deportation by availing themselves of an immigration law provision that authorizes withholding of deportation if the deportee might be "persecuted" in the country to which he has been ordered deported.

The House Committee on the Judiciary stated eloquently the basis for denying this relief to such aliens:

> "Any alien with respect to whom it has been established at deportation hearings by 'clear, convincing, and unequivocal' evidence participated in persecution of others because of race, religion, national origin or political opinion, should not, in the view of the Committee, be afforded the very privileges which he or she has sought to destroy."

(H.R. Rep. No. 95-1452, 95th Cong., 2nd Sess. 13 (1978).)17/

VII. Anti-Semitism in the Anti-OSI Campaign

Another letter written on behalf of Karl Linnas illustrates a disturbing aspect of the campaign to kill the OSI and eliminate the U.S. Government's program to bring suspected war criminals to justice -- ill-concealed anti-Semitism manifested by some of the anti-OSI activists within the Ukrainian and Baltic emigre communities in the United States.

The letter was written to Secretary of State Shultz on December 1, 1984 by Dr. Edward Rubel, of Long Island, N.Y., a leading personality in the emigre community, who identified himself as a member of the Board of Directors of the New York City-based Captive Nations Committee, Inc. Copies were also sent to top White House aides and to

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17/ The Committee found further support for this position in the U.N. Convention Relating to the Status of Refugees, which has the effect of withholding benefits otherwise made available to refugees from persons who are suspected of having committed "crimes against humanity."

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various committees of the U.S. Senate and House of Representatives.18/

Rubel's Letter to Secretary Shultz

Rubel, himself born in Estonia, said in his letter to Secretary Shultz that Stalinist Russia during World War II was "exclusively ruled by Marxist Zionist Jews as the ruling class," that "Soviet Jews as a ruling class in the USSR were as vicious as the Nazis," and that the "Jewish Zionist pressure group in Washington speaks through the OSI for the U.S. Government."

"Equality under the law," Rubel continued, "is one of the few precepts that stands between Eastern European ethnics and the Jewish Zionist special interest groups. . . ." Rubel demanded that "the 'Holocaust' propaganda" be "clear[ed] up once and for all."

Rubel added that staff members of the OSI "should be investigated for DUAL LOYALTY in the war crimes cases . . . greater loyalty to a country or state, including the State of Israel, than to the United States of America, i.e., the country of one's birth or adoption. . . ." (Emphasis in original.) Rubel's letter to Secretary Shultz concluded with the demand that all funding for the Office of Special Investigations be "revoked" and that the unit be "abolished."

Three days later, Rubel wrote a less extreme letter to President Reagan on behalf of Karl Linnas. In this letter, written on the letterhead of the Captive Nations Committee, Inc., Rubel charged that Linnas was "a victim of persecution by the Justice Department's Office of Special Investigations." He insisted that Linnas' failure to divulge his wartime service for the Nazis on his immigration

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18/ Rubel also listed himself as a member of the Schiller Institute, one of the front groups in the complex of organizations oriented toward Lyndon LaRouche, an anti-Semite who was an independent candidate for President of the United States in 1984. The Schiller Institute is headed by LaRouche's wife, Helga Zepp-LaRouche. Willis Carto of the Liberty Lobby, which publishes The Spotlight, and LaRouche have had a friendly relationship in recent years, have met with each other, and The Spotlight has spoken favorably of LaRouche's organization. The full text of Rubel's letter to Secretary Shultz, dated December 1, 1984, is available on request.

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application was no more serious than other immigrants' failure to disclose extramarital affairs. Rubel wrote President Reagan that "at least, Mr. Linnas should be allowed to have political asylum."

Taint of Anti-Semitism

The taint of anti-Semitism in the activities of some leading emigre voices raised against the Government's program to bring suspected Nazi war criminals to justice dates back to the very beginning of the program.

As early as June 23, 1978, when the Justice Department was launching the first coordinated American effort to uncover and prosecute suspected war criminals in the United States, the Lithuanian-language weekly Darbininkas carried an article about the Emmy Award-winning NBC-TV film, "Holocaust," which had been broadcast a short time earlier. The article asserted that the film had been "produced by Jewish directors" and charged that the Soviet Union was allowing Jews to emigrate because the Jews had been assigned a special mission by Moscow -- namely, to "fight Lithuanians and other nations who are in Soviet bondage. . . ."19/

The Darbininkas article exhumed a time-worn and discredited anti-Semitic falsehood that was originated by Czarist emigres in Europe and the United States after the Russian Revolution of 1917 and was later used by Hitler as a cornerstone of his diabolical scheme against the Jews of Europe: that "the Jews led the Russian Revolution and tortured and murdered innocent people."20/ The Darbininkas

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19/ This was the Darbininkas article noted earlier that produced ADL's complaint to the Vatican and the latter's reprimand to the newspaper's publishers.

20/ Similar charges were made by the Rev. Charles E. Coughlin in radio broadcasts during the late 1930s. They were refuted in a booklet, Father Coughlin -- His "Facts" and Arguments, published in 1939 by the General Jewish Council comprised of the American Jewish Committee, B'nai B'rith, the American Jewish Congress and the Jewish Labor Committee. The booklet is available on request.

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article charged that "the Jews murdered not six but seventy million innocent people, perhaps even more because the murder of people in the Soviet Union has not stopped even now," and that "since 1917 the Jews were the rulers of Russia and its enslaved people and the murderers of innocent people."

"Where are the Jewish Eichmanns," the Darbininkas article demanded to know, "whom the Jews have not caught and sentenced to death like Eichmann?" It continued: "The Jews tortured and murdered people all the time" and "were the first to torture and murder the hospitable Lithuanians." Darbininkas' article then insinuated that Hitler had only given the Jews their just desserts: "Amazing that the Jews do not answer the question why Hitler started on the destruction of the Jews."

In its May 28, 1982 issue, Darbininkas further charged that OSI's trials are covered by "journalists -- Soviet sympathizers -- who, with pleasure, describe and announce these stories." The newspaper continued: "[A]fter so many years are they [war criminals] still being found? Why do we need them now?"

'Of Jewish Origin'

In another article criticizing the Justice Department, published on July 13, 1984, Darbininkas took great pains to point out that Senator Arlen Specter (R., Pa.) is "of Jewish origin." Then, in its issue of March 29, 1985, Darbininkas urged that even proven Nazi war criminals should not be deported to the Soviet Union, but rather should be permitted to move to "countries which would accept them for permanent settlement." According to Darbininkas, this kindness would be an appropriate reward for "thirty years of life loyal to this country."

Despite Darbininkas' open manifestation of anti-Semitic sentiments and sympathies for Nazi war criminals, at this writing, anti-OSI activist groups, including Americans For Due Process and the Baltic American Freedom League, continue to use Darbininkas as a principal outlet for disseminating their "updates" on the struggle against the Department of Justice and the U.S. Government's efforts to bring suspected war criminals to justice.

It is ironic that in their propaganda efforts to obstruct and to abolish the OSI by flying the banner of "anti-communism," some of the emigre critics of the U.S. Government's Nazi prosecution program are using tactics reminiscent of those used by Hitler himself: Forty and

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fifty years ago, the Nazi dictator successfully mobilized anti-communist hysteria to justify the destruction of Europe's Jews who, Nazi propaganda falsely claimed, were responsible for the Russian Revolution and "the international Bolshevist conspiracy."

Hitler and 'Mein Kampf'

In 1924, Hitler had referred in Mein Kampf to what he termed "the Jewish doctrine of Marxism." Marxism, he wrote, "systematically plans to hand the world over to the Jews."

As Zbynek Zeman noted in Selling the War, his 1978 study on art and propaganda in World War II, "The [Nazis'] anti-Semitic and anti-Soviet propaganda lines merged into one so frequently that they are sometimes impossible to tell apart." To the Nazis, Jews and communists were virtually one and the same, and they targeted both for liquidation.

[The "Communism is Jewish" equation was originated almost 70 years ago by White Russian, pro-Czarist propagandists around the time of the 1917 Russian Revolution and then spread throughout Europe, and thence to the United States and other parts of the world, including the Middle East. It has ever since been a standard propaganda theme of anti-Semites, including Hitler's Nazis, latter-day neo-Nazis, the Ku Klux Klans, and Arab propagandists. For example, The Aryan Nations, headquartered in Hayden Lake, Idaho, some of whose members and sympathizers have recently been arrested after a series of revolutionary terrorist activities in the Western United States, preaches that "Communism is a Jewish conspiracy to mix, mongrelize and murder the white race."

[Ironically, Soviet anti-Semitism uses propaganda themes which charge Jews with being enemies of the Communist state and of "socialist" society.]

An article published in the July 29, 1982 issue of the Lithuanian-language weekly Dirva ("The Field"), based in Cleveland, was laced with anti-Semitic innuendoes, and actually quoted from The Spotlight, the anti-Semitic newspaper that is an organ of Liberty Lobby. (Liberty Lobby, as noted, is based in Washington, D.C., and is headed by Willis Carto, a notorious anti-Semite for the last 30 years; he also directs the Institute for Historical Review, the California organization which denies the reality of the Nazi Holocaust and claims that it is a fabrication of Zionists and Jews.)

An Attack on Simon Wiesenthal

Carto's anti-Semitic paper was cited by Dirva in an attack on famed Nazi-hunter Simon Wiesenthal that formed part of Dirva's defense of Liudas Kairys; Kairys was on trial at the time, having been charged by the U.S. Government with lying about his SS background when he entered the United States in 1949 and again when he subsequently applied for and obtained American citizenship.21/

Kairys was specifically charged with serving as a brutal SS guard at the Nazis' forced labor camp at Treblinka, where thousands of Jewish civilian prisoners were murdered, and with personally assisting in the persecution of unarmed Jewish civilians. On December 28, 1984, the U.S. District Court in Chicago -- the same court which had granted him citizenship nearly thirty years earlier -- ordered Kairys denaturalized on the basis of his proven Treblinka service.

In its defense of Kairys, Dirva charged that "the most important question" asked of suspects by OSI personnel was: "Did you contribute to the destruction of the Chosen Nation?" Dirva then quoted a radio commentator in Chicago as having said that "the United States does not need a Secretary of State; his duties are fulfilled very well by the Prime Minister of Israel, [Menachem] Begin."

'Representatives of the Chosen Nation'

The author of the Dirva article accused the Justice Department of playing to the courtroom audience, and charged that the Government "practically crucified L. Kairys," adding that OSI's courtroom work "probably" was "intended for the half-dozen Jewish women who had brought their four children who wore yarmulkes on their heads very prominently." What was the Government's purpose? "To show the younger generation how a killer of Jews is being tried," Dirva's writer said. The article added: "But even they probably got tired, because after lunch, these representatives of the Chosen Nation were gone."

The author also protested that Kairys had been a law-abiding citizen in this country who certainly was not

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21/ A more recent reference to The Spotlight appears in the January 1985 issue of the American Latvian Association's Latvian News Digest, which cited the publication as a source of information on the "shameful affairs of the OSI."

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"guilty of something against the United States." According to Dirva's article, Kairys was "a decent citizen" who merely "worked for the good of his country Lithuania as hard as he could." The article even proposed that Kairys be given a medal.

The Dirva article asked, "how will the Prime Minister of Israel Begin fill out his forms having killed a whole village of innocent people? And what kind of an answer will the Israelis give having forced their way into neighboring countries and destroyed all who came into their line of fire?" Dirva continued:

> "It should also be asked if the famous 'Nazi hunter' Simon Wiesenthal filled out his forms accurately everywhere? The Washington newspaper The Spotlight writes that his title of Architect was, according to him, written in by his lawyers without his knowledge. This raises doubt if he was at the Mauthausen Concentration Camp, as he claims. Also, about the pension he receives from the Germans supposedly for a toe lost on a foot. That is probably a lie."

There was no mention by Dirva of the fact that in 1980 President Reagan had presented Wiesenthal with a special gold medal minted in his honor at the direction of a nearly unanimous vote of the United States Congress. (Wiesenthal was also nominated for the Nobel Peace Prize in 1983 and has received highest honors from many nations.)

At another point, the Dirva article said:

> "We Lithuanians do not have a Talmud in which it is written: a tooth for a tooth, an eye for an eye. We harbored Jews that were persecuted by the Germans. Many we saved risking our own lives. The Lithuanian Talmud says: if someone lost an eye, give him your eye."

Dirva's article continued:

> "Many questions could be asked of the representatives of the Chosen Nation, who so diligently and deviously question others. But where would the questions be presented? In the American press, which is either in their hands or reports falsely or completely hushes up the questions if they are not to their benefit? This was clearly shown by the trial of Liudas Kairys . . . . All the preliminary procedures lasted a month. During all

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this time the press was in the service of the Jews and the Soviets . . . ."

'Killers of Yids' and 'Old Testament Vengeance'

In its July 16, 1982 issue, Homin Ukrainy, a Ukrainian-language weekly published in Toronto, referred to allegations concerning "killers of Yids" who had been "brought into America." The paper stated that these allegations had been leveled by "Barney Frank, Massachusetts Congressman, presumably of Jewish extraction. . . ." It characterized the Office of Special Investigations as "some kind of Old Testament vengeance" in the sense of "an eye for an eye -- a tooth for a tooth" and charged that Byelorussians were being targeted by "Old Testament vengeance" as the "weakest scapegoat."

The January 1982 issue of The Truth, a quarterly distributed by the Ukrainian Congress Committee of America, Inc. (UCCA) and other groups, was devoted almost entirely to a denunciation of the Justice Department's "witch hunt" and "holy inquisition." It quoted a UCCA spokesman as asserting that "the OSI has been completely influenced and controlled by the Jewish Lobby." The spokesman added:

> "It is strange in a way that the Jewish Lobby should be so anxious to prosecute these alleged collaborators when so many of their own number were involved as Judenauts [sic] during the Holocaust. These Jews served as a kind of liaison between the Nazis and the Ghettos, setting up men, women, and children marked for destruction and leading them to the slaughter."

These statements notwithstanding, the UCCA insisted in a press release dated April 19, 1985 that it "supports these endeavors" to bring Nazi criminals to justice and that it "shares the same goals and aspirations" of American Jewish organizations. The press release, distributed by the Coalition For Constitutional Justice and Security at its April 19, 1985 press conference, also included the assertion that "hysterical responses . . . attacking the Jewish community" in the United States, while "misguided", are the "inevitable result" of East-West cooperation in the pursuit

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of Nazi war criminals.22/ The document additionally rejected attempts to secure increased emigration of Soviet Jews by use of trade incentives as not "in the best interests of national security."

'. . . A Jew on the Bench as a Judge'

The same issue of The Truth reported that an official of the Boston Estonian Society had complained that the charges against Karl Linnas were "ridiculous." As to Linnas' trial before U.S. District Court Judge Jacob Mishler, The Truth quoted the official as observing: "There was a Jew on the bench as a judge."

Draugas, the Lithuanian-language daily published in Chicago, carried an article in its April 26, 1984 issue that went out of its way to identify the new Director of the OSI -- Neal M. Sher -- as being "of Jewish origin." (Sher had replaced Allan A. Ryan, Jr. in that post). The same article asserted that those who "insist that they will not forget [the Holocaust] as long as they live" are "not without blame" themselves.

Other articles in Draugas on the subject of the Justice Department's Nazi prosecution program have charged "Jewish participation in Communist activities" in Western countries. Assistant Attorney General Stephen S. Trott, Deputy Assistant Attorney General Mark M. Richard, and OSI Director Neal Sher have been linked by Draugas to "the filthy aspects of OSI activity" and then denigrated as "those three troublemakers." In its January 31, 1985 issue, Draugas asserted that OSI's prosecutions, such as that of the "wrongly accused" John Demjanjuk, are "political trials," and that "OSI is headed by Sher, a Jew."

Mykolas Drunga, as noted the associate editor of Draugas, testified on March 12, 1985 as a defense witness in the deportation hearings against Karl Linnas.

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22/ Similarly, an "open letter" to Israeli Prime Minister Yitzhak Shamir published in the Summer 1984 issue of the UCCA publication Ukrainian Quarterly warned that the extradition to Israel of accused Nazi war criminal John Demjanjuk "would tend to generate a new wave of anti-Semitism."

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An Anti-Jewish Letter From Australia

Recently, emigre groups based outside the United States have sought to join in the campaign against the Justice Department's anti-Nazi program and against efforts in Canada to initiate a similar program. One such group is the "Council of the Latvian Officers' Association in Australia and New Zealand," based in New South Wales, Australia.

In a January 5, 1985 letter to U.S. Attorney General Edwin Meese III, one E. Germanis, the Council's Chairman, protested efforts to prosecute "for concocted 'war crimes'" American and Canadian citizens of Latvian descent, "especially the officers of the Latvian Legion." (The Latvian Legion fought on the side of the Germans during World War II.) Germanis' letter consisted of twelve single-spaced pages of blatantly anti-Semitic pronouncements, of which the following are examples:

-- "[T]he law proposed by [then-Congresswoman] Elizabeth Holtzman, of Jewish nationality, and accepted by the U.S. Congress in 1978, was the start of persecutions [sic] for 'war crimes' in the US."

-- "[B]ut using their influence on the media, they [the Jews] carefully hide the 'holocausts' made by the Jews. . . ."

-- "[A]bout 6.5 million Jews in the US dominate a nation of about 250 million."

-- "One of the many aims of these [Jewish] organizations is to contaminate the judicial system of the countries to serve their purpose."

-- "It is well known the Jews are the most privileged ethnic group in the Soviet Union, although they deny it for political purposes."

-- "It is well known that the Russian revolution, which started in 1917, and the establishment of the communist dictatorship in Russia was led by the Jewish nationals . . . ."

-- "When the revolutionaries came to power in Russia in 1917, the Russian upper class citizens and other undesirables to the revolutionaries were killed. The leaders and organizers of

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those killings and tortures . . . all were Jews."

Germanis' tirade concluded with a demand that "[t]he law against war crimes, proposed by Elizabeth Holzman [sic] in 1978 and approved by Congress, should be abrogated. . . ."

The Case of Petro Mirchuk

Petro Mirchuk of Philadelphia, born in the Western Ukraine in 1913, is a Catholic survivor of Auschwitz (July 1942 to January 1945). He has a law degree and a Ph.D, and has been a U.S. citizen for more than 30 years. He was once welcome in the Jewish community as President of the Ukrainian Society of Survivors of the Holocaust, a member of the Society for Jewish-Ukrainian Cooperation, and an honorary member of the Jewish Identity Center and the Chapel of the Four Chaplains. For some years, however, he has been hostile to the Jewish community, and he has appeared as a defense witness for accused Nazi war criminals in various trials here and at the so called "Auschwitz Trial" at Frankfurt-am-Main, West Germany in the mid-1960's.

Mirchuk has written several books that have been privately published, including In the German Mills of Death and My Meetings and Discussions in Israel, the latter subtitled, "Are Ukrainians 'Traditionally Anti-Semites?'" He is also the author of a document entitled, "Memo of the Ukrainian Survivors of [the] Holocaust Concerning [the] U.S. Justice Department's Office of Special Investigations."

The Memo stated that "We, as Ukrainians who are former political prisoners that were held in German prisons and concentration camps, and who are now American citizens, warmly welcomed the formation of an Office of Special Investigation by the U.S. Justice Department . . . to seek out Nazi war criminals and those individuals who actively engaged in the heinous crimes perpetrated by the Third Reich who have since the conclusion of the Second World War illegally obtained U.S. citizenship and found haven within its borders."

But Mirchuk's Memo contended that the OSI has been "transformed . . . into a holy inquisition by world Jewry. . . ."

As to the origin of one particular Justice Department prosecution, Mirchuk wrote that "Jews need a show-trial concerning the Holocaust, and pick up a Ukrainian as a scapegoat, irregardless of whether he is guilty or

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innocent." The Memo further insisted (wrongly, as it happens) that the "members of the Justice Department investigation . . . are primarily Jewish. . . ." And it charged that the Nazis' mobile killing units were "critically aided in [their] work by Jews. . . ."

Toward the end of the Memo, Mirchuk wrote that there were "four million Jewish victims of Nazi persecution," rejecting the generally accepted figure for Jewish civilian Holocaust deaths of six million lives, determined in 1946 by the International Military Tribunal at Nuremberg. Mirchuk concluded his Memo with a "demand that the Justice Department's investigation of suspected war criminals cease and that all pending investigations and deportation proceedings be terminated forthwith."

Anti-Semitic Sources

Mirchuk's book, My Meetings and Discussions in Israel, dated 1982, gives evidence that the author has read widely, but not necessarily selectively, and that his readings include some anti-Semitic sources to which he gives credence by citation and quotation. One such source is former California State Senator Jack B. Tenney (whom Mirchuk identifies incorrectly as a "U.S. Senator") and his anti-Semitic book, The Zionist Network.

Another source used by Mirchuk in his book is the Rev. Dennis Fahey, a priest in Ireland during the 1930s, whom Mirchuk cites as the author of a book entitled, The Rulers of Red Russia, purporting to show that the Jews were prominent in leading the Russian Revolution. Mirchuk used the Fahey book as an authority in testifying during 1981 as a defense witness in the Florida trial of accused Nazi war criminal Bohdan Koziy; the defendant, who was ultimately denaturalized and later ordered deported, was accused of concealing his collaboration with the Nazis and his participation in the murders of unarmed Jewish civilians when he applied for entry to the U.S. and for naturalization as an American citizen.

Fahey was similarly cited by the Rev. Charles E. Coughlin to bolster Coughlin's charges in his radio broadcasts during the late 1930s that Jews played a leading role in the Russian Revolution of 1917. In his broadcasts, Coughlin used another book by Fahey, The Mystical Body of Christ in the Modern World, as an authority. Fahey's documentation was exposed shortly thereafter as utterly spurious. The Mystical Body of Christ in the Modern World was also analyzed at the time by Monsignor John A. Ryan, an

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eminent historian at The Catholic University. Monsignor Ryan said the Fahey book might fairly be put in the category of anti-Semitic literature.23/

Yet Mirchuk used Fahey as an authority in his Florida testimony and in his 1982 book.

Thoughts About Anti-Semitism

At page 129 of his book, My Meetings and Discussions in Israel, Mirchuk, recounting a conversation he purportedly had with an Israeli, gives a clue to his own thinking on the subject of anti-Semitism.

He writes that anti-Semitism has existed "from the most ancient times and everywhere, where the Jews appeared. . . . And," he says he asked the Israeli, it never occurred to you to analyze calmly, scientifically and deeply why it was that all the nations of the world, down through the ages, have hated and persecuted the Jews so brutally and criminally? Don't you think that the reason must lie within yourselves, in your behavior towards other people?" Mirchuk goes on to charge that "Jewish Nazis are working together with the Russian occupiers against the Ukrainians," and that "the influence of Jewish Nazism is unusually strong because it is rooted in religion."

At a later point in the book, Mirchuk states that anti-Semitism exists "not as hatred and persecution of Jews, but as a sly and effective weapon in the hands of Jews, constantly wielded against every non-Jew. . . ." He continues:

> "As soon as somebody lifts a hand against a Jew, he begins to cry, 'Anti-Semitism! Help, an anti-Semite wants to murder me!' And he does this for any reason. Should it happen to be a Jew whom you pushed, then before you have time to realize what you've done, he immediately begins to shout: 'You're an anti-Semite! You're pushing me because you're an anti-Semite! When I came to America, one immigrant who had been here for many years warned me: 'Be careful -- whatever you do, don't bother Jews because you'll immediately be denounced as an anti-Semite. And in America, 'anti-Semitism' means the same thing as 'enemy of the people' does in the U.S.S.R.' In America you can criticize the

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23/ See Father Coughlin -- His "Facts" and Arguments.

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President, publicly state that you don't like him because he's stupid, uninformed about politics and whatever else you wish to say. No one will persecute you for this. But as soon as you say you don't like Jews, you're labeled an 'anti-Semite', that is, an enemy of the people."

In his 1981 appearance as a defense witness in the case of United States v. Bohdan Koziy, Mirchuk testified that "in some respects," all Jewish survivor-witnesses were "pathological liars." He also testified that the Holocaust was "partially a collaboration between the Jews and the Nazis to kill other Jews." In the same case, Mirchuk sought to revise the facts of the World War II Holocaust by asserting that there was "no evidence" that any Ukrainian policeman assisted the Nazis in killing Jews.

In February 1984, affirming the Federal District Court's decision stripping Koziy of his U.S. citizenship, the 11th Circuit U.S. Court of Appeals noted that Mirchuk's credibility "must be analyzed in light of two letters he sent to the Office of Special Investigations" asserting the claim "that the Department of Justice's investigation into Koziy's past was a KGB-Jewish plot to destroy Ukrainian Nationalists."

## VIII. 'Revisionism' -- Rewriting World War II and Holocaust History

Petro Mirchuk's claim that 4,000,000 Jews -- not 6,000,000 -- perished at the hands of the Nazis during World War II, and his testimony in the Koziy case that there was "no evidence" that Ukrainian policemen had assisted the Nazis in killing Jews, were symptoms of a broader manifestation that has been noticeable in recent years: a widespread effort in the U.S., Canada and Europe to rewrite essential facts about World War II and about the Holocaust that was a major phenomenon of that period and that cost the lives of millions besides the Jews who perished. This loosely intertwined transnational propaganda effort has come to be called "Holocaust Revisionism" (although some of its main proponents in the U.S. call it "Historical Revisionism").

### Other 'Revisionism'

A particularly awkward revisionist effort was attempted in the January 1982 issue of The Truth, previously mentioned. The magazine quoted the Chairman of the Boston Estonian Society as insisting that the "innocence" of

accused Nazi war criminal Karl Linnas was proved by the "fact" that the Tartu concentration camp, at which he allegedly served, was "not big enough" to handle the execution of several thousand prisoners.

Some patently revisionist statements were made in the previously quoted letter from E. Germanis of the Council of the Latvian Officers' Association:

-- "[As to] the 6 million Jews killed in the Nazi concentration camps, . . . sufficient information is now available to query the truth of this number accepted at the Nuremberg trial . . . This is doubted also by a number of academics. . . ."

-- "It would be very desirable, that a competent and impartial committee could be appointed by the UN, or at least approved by the UN, to finally clarify as close as possible the believable number of Jews killed in the Nazi concentration camps. . . . [A]n intention to increase the number of killed people for egotistic propaganda purposes to gain material or political advantages is an insult to the conscience of justice of the people belonging to the Western culture."

One influential voice in the Lithuanian-American community is Father Joseph Prunskis of Chicago, Director of Information for the Lithuanian-American Council, Inc., headquartered there. Father Prunskis has written extensively on the history of Lithuania during World War II and on the period of the Nazi Holocaust in that country. One such work authored by Father Prunskis is a booklet entitled, Lithuania's Jews and the Holocaust. The booklet was published in 1979 by the Lithuanian-American Council, apparently in response to the efforts of the Justice Department to investigate and prosecute suspected Nazi war criminals.

A Document From the Nuremberg Trials

One patently revisionist statement in the Prunskis booklet was rather dramatically exposed in 1981 by Justice Department attorneys in the case of United States v. Liudas Kairys, a denaturalization case in which Father Prunskis testified as a pre-trial defense witness. At one point in the booklet, Father Prunskis wrote:

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> "Evidence presented during the Nuremberg Trials showed that 'German SS dressed in Lithuanian military uniforms carried out executions because Lithuanians refused to kill people.'"

As documentation for that statement, Father Prunskis' booklet cited Volume 7 of the 1948 U.S. Government publication Nazi Conspiracy and Aggression, document L-180, at page 984. The report cited is a translation of a captured Nazi report that was indeed used at Nuremberg. But the report says quite the opposite of what Father Prunskis claims it did. The document, in fact, describes the killing of thousands of Jews by Lithuanian partisans and in no way supports Father Prunskis' bizarre claim that Germans masqueraded as Lithuanians. In translation, the "secret" Nazi report says, in part:

> "During the first pogrom in the night from (June 25 to 26) the Lithuanian partisans did away with more than 1,500 Jews, set fire to several Synagogues or destroyed them by other means and burned down a Jewish dwelling district consisting of about 60 houses. During the following nights about 2,300 Jews were made harmless in a similar way. In other parts of Lithuania similar actions followed the example of Kowno, though smaller and extending to the Communists who had been left behind.
>
> "These self-cleansing actions went smoothly because the Army authorities who had been informed showed understanding for this procedure. From the beginning it was obvious that only the first days after the occupation would offer the opportunity for carrying out pogroms. After the disarmament of the partisans the self-cleansing actions ceased necessarily."

During his 1981 pre-trial testimony in the Kairys case, Father Prunskis even went so far as to declare flatly that no Lithuanian took part in any wartime killings of Jews.

Attempts to "rewrite" the history of the Holocaust have been quoted, encouraged and praised in various emigre publications. For example, the Toronto-based Ukrainian-language newspaper Homin Ukrainy, in its issue of June 16, 1982, boasted of successful "Ukrainian action thus far against the dishonoring of the Ukrainian name by American court trials and the press." Similarly, in its November 10, 1983 issue, the Chicago Lithuanian-language daily Draugas inveighed against Justice Department efforts

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"directed . . . at the falsification of Lithuanian history and the accusation of the whole of the Lithuanian nation."

## IX. Conclusion

Some Ukrainian and Baltic emigre activists are intensifying their five-year propaganda smokescreen campaign to undermine the Justice Department's Office of Special Investigations and to terminate the U.S. Government's program to bring suspected Nazi war criminals in the United States before the bar of justice.

There is now an all-out lobbying campaign to persuade the Administration and the U.S. Congress to abolish the OSI and to end the pursuit of war criminal suspects by the U.S. Government.

At times, this campaign has been marked by ill-concealed anti-Semitic propaganda themes. Another element is an effort to rewrite the history of the World War II era and to distort essential facts about the Holocaust.

The U.S. program to ferret out those who collaborated in Nazi persecution and later gained entry to the United States, and American citizenship, by concealing their activities has been effectively carried out by the Justice Department. Its Office of Special Investigations has written an impressive record in tracking down suspects and carefully prosecuting them according to the rules of American law and under American constitutional safeguards.

The U.S. program has had the support of Democratic and Republican administrations alike -- those of Presidents Jimmy Carter and Ronald Reagan. The U.S. program, started by the mandate of the U.S. Congress, has gone forward because the American people, as well as their elected Presidents, Senators and Representatives, have given it strong support.

The Anti-Defamation League of B'nai B'rith believes that American efforts to bring suspected Nazi war criminals to justice should -- and must -- continue. The ADL is confident that these efforts deserve, and will continue to receive, the support of the American people and their elected representatives.

Simple justice requires nothing less.

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